

110TH CONGRESS  
2D SESSION

# S. 2642

To establish a national renewable energy standard, to extend and create renewable energy tax incentives, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2008

Ms. KLOBUCHAR (for herself, Ms. SNOWE, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To establish a national renewable energy standard, to extend and create renewable energy tax incentives, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “American Renewable Energy Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

### TITLE I—RENEWABLE ENERGY STANDARD

Sec. 101. Renewable portfolio standard.

## TITLE II—ENERGY TAX PROVISIONS

Sec. 200. Short title; etc.

## Subtitle A—Energy Advancement and Investment

## PART I—ADVANCED ELECTRICITY INFRASTRUCTURE

- Sec. 201. Extension and modification of renewable electricity, refined coal, and Indian coal production credit.
- Sec. 202. Extension and modification of credit for clean renewable energy bonds.
- Sec. 203. Extension and modification of energy credit.
- Sec. 204. Energy credit for combined heat and power system property.
- Sec. 205. Special depreciation allowance for certain electric transmission property.
- Sec. 206. Extension of special rule to implement FERC restructuring policy.
- Sec. 207. Extension and modification of credit for residential energy efficient property.
- Sec. 208. Credit for residential wind property.
- Sec. 209. Seven-year applicable recovery period for depreciation of qualified energy management devices.
- Sec. 210. Landowner incentive to encourage electric transmission build-out.
- Sec. 211. Partial exemption from passive activity limitations for qualified wind facilities.
- Sec. 212. Credit for electricity produced from qualified wind facilities allowed against alternative minimum tax.

## PART II—DOMESTIC FUEL SECURITY

- Sec. 221. Credit for production of cellulosic biomass alcohol.
- Sec. 222. Expansion of special allowance to cellulosic biomass alcohol fuel plant property.
- Sec. 223. Extension of small ethanol producer credit.
- Sec. 224. Credit for producers of fossil free alcohol.
- Sec. 225. Modification of alcohol credit.
- Sec. 226. Extension and modification of credit for biodiesel used as fuel.
- Sec. 227. Extension and modification of alternative fuel credit.
- Sec. 228. Extension of alternative fuel vehicle refueling property credit.
- Sec. 229. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 230. Extension and modification of election to expense certain refineries.
- Sec. 231. Ethanol tariff extension.
- Sec. 232. Elimination and reductions of duty drawback on certain imported ethanol.
- Sec. 233. Certain income and gains relating to alcohol fuel mixtures, biodiesel fuel mixtures, and alternative fuel treated as qualifying income for publicly traded partnerships.
- Sec. 234. Technical amendments.

## PART III—ADVANCED TECHNOLOGY VEHICLES

- Sec. 241. Expansion and modification of credit for alternative fuel motor vehicles.
- Sec. 242. Credit for plug-in electric drive motor vehicles.
- Sec. 243. Exclusion from heavy truck tax for idling reduction units and advanced insulation added after purchase.

## PART IV—CONSERVATION AND ENERGY EFFICIENCY

- Sec. 251. Extension and modification of nonbusiness energy property credit.
- Sec. 252. Extension and modification of new energy efficient home credit.
- Sec. 253. Extension and modification of energy efficient commercial buildings deduction.
- Sec. 254. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 255. Special depreciation allowance for certain reuse and recycling property.

## Subtitle B—Revenue Raising Provisions

- Sec. 261. Denial of deduction for major integrated oil companies for income attributable to domestic production of oil, natural gas, or primary products thereof.
- Sec. 262. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
- Sec. 263. Increase and extension of Oil Spill Liability Trust Fund tax.
- Sec. 264. Limitation on drawback claimed for amounts deposited into the Oil Spill Liability Trust Fund.
- Sec. 265. Tax on crude oil and natural gas produced from the outer Continental Shelf in the Gulf of Mexico.
- Sec. 266. Taxation of taxable fuels in foreign trade zones.
- Sec. 267. Clarification of penalty for sale of fuel failing to meet EPA regulations.
- Sec. 268. Clarification of eligibility for certain fuels credits for fuel with insufficient nexus to the United States.
- Sec. 269. Treatment of qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures as taxable fuels.
- Sec. 270. Calculation of volume of alcohol for fuel credits.
- Sec. 271. Bulk transfer exception not to apply to finished gasoline.
- Sec. 272. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.
- Sec. 273. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 274. Revision of tax rules on expatriation of individuals.

# 1    **TITLE I—RENEWABLE ENERGY**

## 2                                    **STANDARD**

### 3    **SEC. 101. RENEWABLE PORTFOLIO STANDARD.**

4            (a) IN GENERAL.—Title VI of the Public Utility Reg-  
 5    ulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is  
 6    amended by adding at the end the following:

1 **“SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) BASE AMOUNT OF ELECTRICITY.—The  
4 term ‘base amount of electricity’ means the total  
5 amount of electricity sold by an electric utility to  
6 electric consumers in a calendar year, excluding mu-  
7 nicipal waste and electricity generated by a hydro-  
8 electric facility (including a pumped storage facility,  
9 but excluding incremental hydropower).

10 “(2) DISTRIBUTED GENERATION FACILITY.—  
11 The term ‘distributed generation facility’ means a  
12 facility at a customer site.

13 “(3) EXISTING RENEWABLE ENERGY.—The  
14 term ‘existing renewable energy’ means, except as  
15 provided in paragraph (7)(B), electric energy gen-  
16 erated at a facility (including a distributed genera-  
17 tion facility) placed in service prior to January 1,  
18 2001, from solar, wind, or geothermal energy, ocean  
19 energy, biomass (as defined in section 203(b) of the  
20 Energy Policy Act of 2005 (42 U.S.C. 15852(b)), or  
21 landfill gas.

22 “(4) GEOTHERMAL ENERGY.—The term ‘geo-  
23 thermal energy’ means energy derived from a geo-  
24 thermal deposit (within the meaning of section  
25 613(e)(2) of the Internal Revenue Code of 1986).

1           “(5) INCREMENTAL GEOTHERMAL PRODUC-  
2           TION.—

3           “(A) IN GENERAL.—The term ‘incremental  
4           geothermal production’ means for any year the  
5           excess of—

6                   “(i) the total kilowatt hours of elec-  
7                   tricity produced from a facility (including a  
8                   distributed generation facility) using geo-  
9                   thermal energy; over

10                   “(ii) the average annual kilowatt  
11                   hours produced at such facility for 5 of the  
12                   previous 7 calendar years before the date  
13                   of enactment of this section after elimi-  
14                   nating the highest and the lowest kilowatt  
15                   hour production years in such 7-year pe-  
16                   riod.

17           “(B) SPECIAL RULE.—A facility described  
18           in subparagraph (A) that was placed in service  
19           at least 7 years before the date of enactment of  
20           this section shall, commencing with the year in  
21           which such date of enactment occurs, reduce  
22           the amount calculated under subparagraph  
23           (A)(ii) each year, on a cumulative basis, by the  
24           average percentage decrease in the annual kilo-  
25           watt hour production for the 7-year period de-

scribed in subparagraph (A)(ii) with such cumulative sum not to exceed 30 percent.

“(6) INCREMENTAL HYDROPOWER.—

“(A) IN GENERAL.—The term ‘incremental hydropower’ means additional energy generated as a result of efficiency improvements or capacity additions made on or after January 1, 2001, or the effective date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date.

“(B) EXCLUSION.—The term ‘incremental hydropower’ does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions.

“(C) MEASUREMENT.—Efficiency improvements and capacity additions shall be measured on the basis of the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission.

“(7) NEW RENEWABLE ENERGY.—The term ‘new renewable energy’ means—

1 “(A) electric energy generated at a facility  
2 (including a distributed generation facility)  
3 placed in service on or after January 1, 2001,  
4 from—

5 “(i) solar, wind, or geothermal energy  
6 or ocean energy;

7 “(ii) biomass (as defined in section  
8 203(b) of the Energy Policy Act of 2005  
9 (42 U.S.C. 15852(b));

10 “(iii) landfill gas; or

11 “(iv) incremental hydropower; and

12 “(B) for electric energy generated at a fa-  
13 cility (including a distributed generation facil-  
14 ity) placed in service prior to the date of enact-  
15 ment of this section—

16 “(i) the additional energy above the  
17 average generation during the 3-year pe-  
18 riod ending on the date of enactment of  
19 this section at the facility from—

20 “(I) solar or wind energy or  
21 ocean energy;

22 “(II) biomass (as defined in sec-  
23 tion 203(b) of the Energy Policy Act  
24 of 2005 (42 U.S.C. 15852(b));

25 “(III) landfill gas; or

1 “(IV) incremental hydropower;

2 and

3 “(ii) incremental geothermal produc-

4 tion.

5 “(8) OCEAN ENERGY.—The term ‘ocean energy’

6 includes current, wave, tidal, and thermal energy.

7 “(b) RENEWABLE ENERGY REQUIREMENT.—

8 “(1) IN GENERAL.—Each electric utility that

9 sells electricity to electric consumers shall obtain a

10 percentage of the base amount of electricity the elec-

11 tric utility sells to electric consumers in any calendar

12 year from new renewable energy or existing renew-

13 able energy.

14 “(2) MINIMUM ANNUAL PERCENTAGE.—The

15 percentage obtained in a calendar year shall not be

16 less than the amount specified in the following table:

“Calendar year:	Minimum annual percentage:
2010 .....	2
2011 .....	4
2012 .....	6
2013 .....	8
2014 .....	10
2015 .....	11
2016 .....	12
2017 .....	13
2018 .....	14
2019 .....	15
2020 .....	16
2021 .....	17
2022 .....	18
2023 .....	19
2024 .....	20.



1           “(3) MEANS OF COMPLIANCE.—An electric util-  
 2           ity shall meet the requirements of this subsection  
 3           by—

4                   “(A) submitting to the Secretary renewable  
 5           energy credits issued under subsection (c);

6                   “(B) making alternative compliance pay-  
 7           ments to the Secretary at the rate of 2 cents  
 8           per kilowatt hour (as adjusted for inflation  
 9           under subsection (h)); or

10                   “(C) conducting a combination of activities  
 11           described in subparagraphs (A) and (B).

12           “(c) RENEWABLE ENERGY CREDIT TRADING PRO-  
 13   GRAM.—

14                   “(1) IN GENERAL.—Not later than July 1,  
 15           2009, the Secretary shall establish a renewable en-  
 16           ergy credit trading program under which each elec-  
 17           tric utility shall submit to the Secretary renewable  
 18           energy credits to certify the compliance of the elec-  
 19           tric utility with respect to obligations under sub-  
 20           section (b).

21                   “(2) ADMINISTRATION.—As part of the pro-  
 22           gram, the Secretary shall—

23                   “(A) issue tradeable renewable energy  
 24           credits to generators of electric energy from  
 25           new renewable energy;

1 “(B) issue nontradeable renewable energy  
2 credits to generators of electric energy from ex-  
3 isting renewable energy;

4 “(C) issue renewable energy credits to elec-  
5 tric utilities associated with State renewable  
6 portfolio standard compliance mechanisms pur-  
7 suant to subsection (i);

8 “(D) ensure that a kilowatt hour, including  
9 the associated renewable energy credit, shall be  
10 used only once for purposes of compliance with  
11 this section;

12 “(E) allow double credits for generation  
13 from facilities on Indian land, and triple credits  
14 for generation from small renewable distributed  
15 generators (meaning those no larger than 1  
16 megawatt); and

17 “(F) ensure that, with respect to a pur-  
18 chaser that as of the date of enactment of this  
19 section has a purchase agreement from a re-  
20 newable energy facility placed in service before  
21 that date, the credit associated with the genera-  
22 tion of renewable energy under the contract is  
23 issued to the purchaser of the electric energy.

24 “(3) DURATION.—A credit described in sub-  
25 paragraph (A) or (B) of paragraph (2) may only be

1       used for compliance with this section during the 3-  
 2       year period beginning on the date of issuance of the  
 3       credit.

4               “(4) TRANSFERS.—An electric utility that holds  
 5       credits in excess of the quantity of credits needed to  
 6       comply with subsection (b) may transfer the credits  
 7       to another electric utility in the same utility holding  
 8       company system.

9               “(5) DELEGATION OF MARKET FUNCTION.—  
 10       The Secretary may delegate to an appropriate entity  
 11       that establishes markets the administration of a na-  
 12       tional tradeable renewable energy credit market for  
 13       purposes of creating a transparent national market  
 14       for the sale or trade of renewable energy credits.

15       “(d) ENFORCEMENT.—

16               “(1) CIVIL PENALTIES.—Any electric utility  
 17       that fails to meet the compliance requirements of  
 18       subsection (b) shall be subject to a civil penalty.

19               “(2) AMOUNT OF PENALTY.—Subject to para-  
 20       graph (3), the amount of the civil penalty shall be  
 21       equal to the product obtained by multiplying—

22                       “(A) the number of kilowatt-hours of elec-  
 23       tric energy sold to electric consumers in viola-  
 24       tion of subsection (b); by

25                       “(B) the greater of—

1 “(i) 2 cents (adjusted for inflation  
2 under subsection (h)); or

3 “(ii) 200 percent of the average mar-  
4 ket value of renewable energy credits dur-  
5 ing the year in which the violation oc-  
6 curred.

7 “(3) MITIGATION OR WAIVER.—

8 “(A) IN GENERAL.—The Secretary may  
9 mitigate or waive a civil penalty under this sub-  
10 section if the electric utility is unable to comply  
11 with subsection (b) for reasons outside of the  
12 reasonable control of the utility.

13 “(B) REDUCTION.—The Secretary shall re-  
14 duce the amount of any penalty determined  
15 under paragraph (2) by an amount paid by the  
16 electric utility to a State for failure to comply  
17 with the requirement of a State renewable en-  
18 ergy program if the State requirement is great-  
19 er than the applicable requirement of subsection  
20 (b).

21 “(4) PROCEDURE FOR ASSESSING PENALTY.—

22 The Secretary shall assess a civil penalty under this  
23 subsection in accordance with the procedures pre-  
24 scribed by section 333(d) of the Energy Policy and  
25 Conservation Act of 1954 (42 U.S.C. 6303).

1       “(e) STATE RENEWABLE ENERGY ACCOUNT PRO-  
2   GRAM.—

3           “(1) IN GENERAL.—Not later than December  
4       31, 2008, the Secretary of the Treasury shall estab-  
5       lish a State renewable energy account in the Treas-  
6       ury.

7           “(2) DEPOSITS.—

8           “(A) IN GENERAL.—All money collected by  
9       the Secretary from alternative compliance pay-  
10      ments and the assessment of civil penalties  
11      under this section shall be deposited into the re-  
12      newable energy account established under para-  
13      graph (1).

14          “(B) SEPARATE ACCOUNT.—The State re-  
15      newable energy account shall be maintained as  
16      a separate account in the Treasury and shall  
17      not be transferred to the general fund of the  
18      Treasury.

19          “(3) USE.—Proceeds deposited in the State re-  
20      newable energy account shall be used by the Sec-  
21      retary, subject to appropriations, for a program to  
22      provide grants to the State agency responsible for  
23      developing State energy conservation plans under  
24      section 362 of the Energy Policy and Conservation  
25      Act (42 U.S.C. 6322) for the purposes of promoting

1 renewable energy production, including programs  
2 that promote technologies that reduce the use of  
3 electricity at customer sites such as solar water  
4 heating.

5 “(4) ADMINISTRATION.—The Secretary may  
6 issue guidelines and criteria for grants awarded  
7 under this subsection. State energy offices receiving  
8 grants under this section shall maintain such  
9 records and evidence of compliance as the Secretary  
10 may require.

11 “(5) PREFERENCE.—In allocating funds under  
12 this program, the Secretary shall give preference—

13 “(A) to States in regions which have a dis-  
14 proportionately small share of economically sus-  
15 tainable renewable energy generation capacity;  
16 and

17 “(B) to State programs to stimulate or en-  
18 hance innovative renewable energy technologies.

19 “(f) RULES.—The Secretary shall issue rules imple-  
20 menting this section not later than 1 year after the date  
21 of enactment of this section.

22 “(g) EXEMPTIONS.—This section shall not apply in  
23 any calendar year to an electric utility—

1           “(1) that sold less than 4,000,000 megawatt-  
2           hours of electric energy to electric consumers during  
3           the preceding calendar year; or

4           “(2) in Hawaii.

5           “(h) INFLATION ADJUSTMENT.—Not later than De-  
6           cember 31, 2008, and December 31 of each year there-  
7           after, the Secretary shall adjust for United States dollar  
8           inflation (as measured by the Consumer Price Index)—

9           “(1) the price of a renewable energy credit  
10          under subsection (c)(2); and

11          “(2) the amount of the civil penalty per kilo-  
12          watt-hour under subsection (d)(2).

13          “(i) STATE PROGRAMS.—

14          “(1) IN GENERAL.—Nothing in this section di-  
15          minishes any authority of a State or political sub-  
16          division of a State to adopt or enforce any law or  
17          regulation respecting renewable energy, but, except  
18          as provided in subsection (d)(3), no such law or reg-  
19          ulation shall relieve any person of any requirement  
20          otherwise applicable under this section.

21          “(2) COORDINATION.—The Secretary, in con-  
22          sultation with States having such renewable energy  
23          programs, shall, to the maximum extent practicable,  
24          facilitate coordination between the Federal program  
25          and State programs.

1 “(3) REGULATIONS.—

2 “(A) IN GENERAL.—The Secretary, in con-  
3 sultation with States, shall promulgate regula-  
4 tions to ensure that an electric utility subject to  
5 the requirements of this section that is also  
6 subject to a State renewable energy standard  
7 receives renewable energy credits in relation to  
8 equivalent quantities of renewable energy asso-  
9 ciated with compliance mechanisms, other than  
10 the generation or purchase of renewable energy  
11 by the electric utility, including the acquisition  
12 of certificates or credits and the payment of  
13 taxes, fees, surcharges, or other financial com-  
14 pliance mechanisms by the electric utility or a  
15 customer of the electric utility, directly associ-  
16 ated with the generation or purchase of renew-  
17 able energy.

18 “(B) PROHIBITION ON DOUBLE COUNT-  
19 ING.—The regulations promulgated under this  
20 paragraph shall ensure that a kilowatt hour as-  
21 sociated with a renewable energy credit issued  
22 pursuant to this subsection shall not be used  
23 for compliance with this section more than  
24 once.

25 “(j) RECOVERY OF COSTS.—



1           “(1) IN GENERAL.—The Commission shall issue  
 2           and enforce such regulations as are necessary to en-  
 3           sure that an electric utility recovers all prudently in-  
 4           curred costs associated with compliance with this  
 5           section.

6           “(2) APPLICABLE LAW.—A regulation under  
 7           paragraph (1) shall be enforceable in accordance  
 8           with the provisions of law applicable to enforcement  
 9           of regulations under the Federal Power Act (16  
 10          U.S.C. 791a et seq.).

11          “(k) WIND ENERGY DEVELOPMENT STUDY.—The  
 12          Secretary, in consultation with appropriate Federal and  
 13          State agencies, shall conduct, and submit to Congress a  
 14          report describing the results of, a study on methods to  
 15          increase transmission line capacity for wind energy devel-  
 16          opment.

17          “(l) SUNSET.—This section expires on December 31,  
 18          2040.”.

19          (b) TABLE OF CONTENTS AMENDMENT.—The table  
 20          of contents of the Public Utility Regulatory Policies Act  
 21          of 1978 (16 U.S.C. prec. 2601) is amended by adding at  
 22          the end of the items relating to title VI the following:

“Sec. 609. Rural and remote communities electrification grants.

“Sec. 610. Federal renewable portfolio standard.”.

## TITLE II—ENERGY TAX PROVISIONS

### SEC. 200. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the “Renewable Energy Tax Incentives Act”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## Subtitle A—Energy Advancement and Investment

### PART I—ADVANCED ELECTRICITY INFRASTRUCTURE

#### SEC. 201. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY, REFINED COAL, AND INDIAN COAL PRODUCTION CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 45(d) (relating to qualified facilities) is amended—

(A) by striking “January 1, 2009” each place it appears in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9) and inserting “January 1, 2014”, and

1 (B) by striking “7-year period” both places  
 2 it appears in paragraph (10)(A) and inserting  
 3 “8-year period”.

4 (2) EFFECTIVE DATE.—The amendments made  
 5 by this subsection shall take effect on the date of the  
 6 enactment of this Act.

7 (b) CREDIT RATE FOR ELECTRICITY MAINTAINED AT  
 8 2007 LEVEL.—

9 (1) IN GENERAL.—Section 45(a)(1) (relating to  
 10 general rule) is amended by striking “1.5 cents” and  
 11 inserting “2 cents”.

12 (2) NO INFLATION ADJUSTMENT.—Section  
 13 45(b)(2) (relating to credit and phaseout adjustment  
 14 based on inflation) is amended by striking “1.5 cent  
 15 amount in subsection (a), the”.

16 (3) CONFORMING AMENDMENTS.—Section  
 17 45(b)(4)(A) is amended—

18 (A) by striking “2003” and inserting  
 19 “2006”, and

20 (B) by striking “the amount in effect” and  
 21 all that follows and inserting “subsection (a)(1)  
 22 shall be applied by substituting ‘0.9 cent’ for ‘2  
 23 cents’.”.

1           (4) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall apply to electricity produced  
3       and sold after December 31, 2006.

4       (c) MODIFICATION OF REFINED COAL AS A QUALI-  
5 FIED ENERGY RESOURCE.—

6           (1) ELIMINATION OF INCREASED MARKET  
7       VALUE TEST.—Section 45(c)(7)(A) (defining refined  
8       coal) is amended—

9                   (A) by striking clause (iv),

10                  (B) by adding “and” at the end of clause  
11       (ii), and

12                  (C) by striking “, and” at the end of  
13       clause (iii) and inserting a period.

14       (2) INCREASE IN REQUIRED EMISSION REDUC-  
15       TION.—Section 45(c)(7)(B) (defining qualified emis-  
16       sion reduction) is amended by inserting “at least 40  
17       percent of the emissions of” after “nitrogen oxide  
18       and”.

19       (3) EFFECTIVE DATE.—The amendments made  
20       by this subsection shall apply to coal produced and  
21       sold after December 31, 2007.

22       (d) CREDIT ALLOWED FOR ON-SITE USE OF ELEC-  
23       TRICITY PRODUCED FROM BIOMASS.—

1           (1) ON-SITE USE.—Section 45(e) (relating to  
2       definitions and special rules) is amended by adding  
3       at the end the following new paragraph:

4           “(12) CREDIT ALLOWED FOR ON-SITE USE OF  
5       ELECTRICITY PRODUCED FROM BIOMASS.—In the  
6       case of electricity produced after December 31,  
7       2007, at any facility described in paragraph (2) or  
8       (3) which is equipped with net metering to deter-  
9       mine electricity consumption or sale (such consump-  
10      tion or sale to be verified by a third party as deter-  
11      mined by the Secretary), subsection (a)(2) shall be  
12      applied without regard to subparagraph (B) there-  
13      of.”.

14          (2) EFFECTIVE DATE.—The amendment made  
15      by this subsection shall take effect on the date of the  
16      enactment of this Act.

17      (e) EXPANSION OF RESOURCES TO WAVE, CURRENT,  
18      TIDAL, AND OCEAN THERMAL ENERGY.—

19          (1) IN GENERAL.—Section 45(c)(1) (defining  
20      qualified energy resources) is amended by striking  
21      “and” at the end of subparagraph (G), by striking  
22      the period at the end of subparagraph (H) and in-  
23      serting “, and”, and by adding at the end the fol-  
24      lowing new subparagraph:

1           “(I) wave, current, tidal, and ocean ther-  
2           mal energy.”.

3           (2) DEFINITION OF RESOURCES.—Section 45(c)  
4           is amended by adding at the end the following new  
5           paragraph:

6           “(10) WAVE, CURRENT, TIDAL, AND OCEAN  
7           THERMAL ENERGY.—The term ‘wave, current, tidal,  
8           and ocean thermal energy’ means electricity pro-  
9           duced from any of the following:

10           “(A) Free flowing ocean water derived  
11           from tidal currents, ocean currents, waves, or  
12           estuary currents.

13           “(B) Ocean thermal energy.”.

14           (3) FACILITIES.—Section 45(d) is amended by  
15           adding at the end the following new paragraph:

16           “(11) WAVE, CURRENT, TIDAL, AND OCEAN  
17           THERMAL FACILITY.—In the case of a facility using  
18           resources described in subparagraph (A), (B), or (C)  
19           of subsection (c)(10) to produce electricity, the term  
20           ‘qualified facility’ means any facility owned by the  
21           taxpayer which is originally placed in service after  
22           the date of the enactment of this paragraph and be-  
23           fore January 1, 2014, but such term shall not in-  
24           clude a facility which includes impoundment struc-  
25           tures or a small irrigation power facility.”.

1 (4) CREDIT RATE.—Section 45(b)(4)(A) (relat-  
 2 ing to credit rate), as amended by this section, is  
 3 amended by striking “or (9)” and inserting “(9), or  
 4 (11)”.

5 (5) EFFECTIVE DATE.—The amendments made  
 6 by this subsection shall take effect on the date of the  
 7 enactment of this Act.

8 (f) TRASH FACILITY CLARIFICATION.—

9 (1) IN GENERAL.—Paragraph (7) of section  
 10 45(d) is amended—

11 (A) by striking “facility which burns” and  
 12 inserting “facility (other than a facility de-  
 13 scribed in paragraph (6)) which uses”, and

14 (B) by striking “COMBUSTION”.

15 (2) EFFECTIVE DATE.—The amendments made  
 16 by this subsection shall apply to electricity produced  
 17 and sold before, on, or after December 31, 2007.

18 **SEC. 202. EXTENSION AND MODIFICATION OF CREDIT FOR**

19 **CLEAN RENEWABLE ENERGY BONDS.**

20 (a) INCREASE IN AMOUNT OF BONDS DESIGNATED;  
 21 4-YEAR EXTENSION.—

22 (1) IN GENERAL.—Section 54(f) (relating to  
 23 limitation on amount of bonds designated) is amend-  
 24 ed by adding at the end the following new para-  
 25 graph:

1 “(3) NATIONAL ANNUAL LIMITATION.—

2 “(A) IN GENERAL.—There is a national  
3 clean renewable energy bond annual limitation  
4 for each calendar year. Such limitation is  
5 \$900,000,000 for 2008, 2009, 2010, and 2011,  
6 and, except as provided in subparagraph (C),  
7 zero thereafter.

8 “(B) ALLOCATION BY SECRETARY.—The  
9 national clean renewable energy bond limitation  
10 for a calendar year shall be allocated by the  
11 Secretary among qualified projects in such  
12 manner as the Secretary determines appro-  
13 priate, except that the Secretary may not allo-  
14 cate more than \$563,000,000 of such limitation  
15 for each calendar year to finance qualified  
16 projects of qualified borrowers which are gov-  
17 ernmental bodies, of which not less than one-  
18 half of such amount shall be allocated with re-  
19 spect to qualified projects equaling or exceeding  
20 \$10,000,000 in capital expenditures per project.

21 “(C) CARRYOVER OF UNUSED LIMITA-  
22 TION.—If for any calendar year, the national  
23 clean renewable energy bond annual limitation  
24 for such year exceeds the amount of bonds allo-  
25 cated during such year, such limitation for the



1 following calendar year shall be increased by  
 2 the amount of such excess. Any carryforward of  
 3 a limitation may be carried only to the first  
 4 year following the unused limitation year. For  
 5 purposes of the preceding sentence, a limitation  
 6 shall be treated as used on a first-in first-out  
 7 basis.”.

8 (2) CONFORMING AMENDMENT.—Section 54 is  
 9 amended by striking subsection (m).

10 (b) LIMITATION ON TIME FOR ISSUANCE.—Section  
 11 54(d)(1)(A) (defining clean renewable energy bond) is  
 12 amended by inserting “, or is issued by the qualified issuer  
 13 pursuant to an allocation by the Secretary to such issuer  
 14 of a portion of the national clean renewable energy bond  
 15 annual limitation under subsection (f)(3) by not later than  
 16 the end of the calendar year following the year of such  
 17 allocation” after “subsection (f)(2)”.

18 (c) MODIFICATION OF RATABLE PRINCIPAL AMORTI-  
 19 ZATION REQUIREMENT.—

20 (1) IN GENERAL.—Paragraph (5) of section  
 21 54(l) is amended to read as follows:

22 “(5) RATABLE PRINCIPAL AMORTIZATION RE-  
 23 QUIRED.—A bond shall not be treated as a clean re-  
 24 newable energy bond unless it is part of an issue  
 25 which provides for an equal amount of principal to

1 be paid by the qualified issuer during each 12-month  
 2 period that the issue is outstanding (other than the  
 3 first 12-month period in the case of bonds issued  
 4 pursuant to an allocation under subsection (f)(3)).”.

5 (2) CONFORMING AMENDMENT.—The third sen-  
 6 tence of section 54(e)(2) is amended by striking  
 7 “subsection (l)(6)” and inserting “subsection (l)(5)”.

8 (d) QUALIFIED PROJECT INCLUDES CERTAIN  
 9 TRANSMISSION LINES.—Section 54(d)(2)(A) (defining  
 10 qualified project) is amended by inserting “and any elec-  
 11 tric transmission property capital expenditures (as defined  
 12 in section 172(b)(1)(I)(v)(I)) related to such facility” after  
 13 “qualified borrower”.

14 (e) EFFECTIVE DATE.—The amendments made by  
 15 this section shall take effect on the date of the enactment  
 16 of this Act.

17 **SEC. 203. EXTENSION AND MODIFICATION OF ENERGY**  
 18 **CREDIT.**

19 (a) EXTENSION.—

20 (1) QUALIFIED FUEL CELL PROPERTY.—Sub-  
 21 paragraph (E) of section 48(c)(1) is amended by  
 22 striking “December 31, 2008” and inserting “De-  
 23 cember 31, 2016”.

24 (2) QUALIFIED MICROTURBINE PROPERTY.—  
 25 Subparagraph (E) of section 48(c)(2) is amended by

1 striking “December 31, 2008” and inserting “De-  
2 cember 31, 2016”.

3 (3) SOLAR PROPERTY.—Paragraphs (2)(i)(II)  
4 and (3)(A)(ii) of section 48(a) are each amended by  
5 striking “January 1, 2009” and inserting “January  
6 1, 2017”.

7 (b) REPEAL OF PUBLIC UTILITY PROPERTY EXCLU-  
8 SION.—

9 (1) IN GENERAL.—Paragraph (3) of section  
10 48(a), as amended by subsection (a)(3), is amended  
11 by striking the first sentence which follows subpara-  
12 graph (D).

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 48(c)(1), as amended by sub-  
15 section (a)(1), is amended by striking subpara-  
16 graph (D) and by redesignating subparagraph  
17 (E) as subparagraph (D).

18 (B) Section 48(c)(2), as amended by sub-  
19 section (a)(2), is amended by striking subpara-  
20 graph (D) and by redesignating subparagraph  
21 (E) as subparagraph (D).

22 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION  
23 FOR FUEL CELL PROPERTY.—

24 (1) IN GENERAL.—Section 48(c)(1), as amend-  
25 ed by subsection (b)(2)(A), is amended by striking

1        subparagraph (B) and by redesignating subpara-  
 2        graphs (C) and (D) as subparagraphs (B) and (C),  
 3        respectively.

4            (2) CONFORMING AMENDMENT.—Section  
 5        48(a)(1) is amended by striking “paragraphs (1)(B)  
 6        and (2)(B) of subsection (c)” and inserting “sub-  
 7        section (c)(2)(B)”.

8        (d) EFFECTIVE DATES.—

9            (1) IN GENERAL.—Except as provided in para-  
 10        graph (2), the amendments made by section shall  
 11        apply to periods after the date of the enactment of  
 12        this Act, in taxable years ending after such date,  
 13        under rules similar to the rules of section 48(m) of  
 14        the Internal Revenue Code of 1986 (as in effect on  
 15        the day before the date of the enactment of the Rev-  
 16        enue Reconciliation Act of 1990).

17            (2) EXTENSIONS.—The amendments made by  
 18        subsection (a) shall take effect on the date of the en-  
 19        actment of this Act.

20        **SEC. 204. ENERGY CREDIT FOR COMBINED HEAT AND**  
 21            **POWER SYSTEM PROPERTY.**

22            (a) IN GENERAL.—Section 48(a)(3)(A) (defining en-  
 23        ergy property) is amended by striking “or” at the end of  
 24        clause (iii), by inserting “or” at the end of clause (iv),  
 25        and by adding at the end the following new clause:

1 “(v) combined heat and power system  
2 property,”.

3 (b) COMBINED HEAT AND POWER SYSTEM PROP-  
4 ERTY.—Section 48 (relating to energy credit; reforestation  
5 credit) is amended by adding at the end the following new  
6 subsection:

7 “(d) COMBINED HEAT AND POWER SYSTEM PROP-  
8 ERTY.—For purposes of subsection (a)(3)(A)(v)—

9 “(1) COMBINED HEAT AND POWER SYSTEM  
10 PROPERTY.—The term ‘combined heat and power  
11 system property’ means property comprising a sys-  
12 tem—

13 “(A) which uses the same energy source  
14 for the simultaneous or sequential generation of  
15 electrical power, mechanical shaft power, or  
16 both, in combination with the generation of  
17 steam or other forms of useful thermal energy  
18 (including heating and cooling applications),

19 “(B) which has an electrical capacity of  
20 not more than 15 megawatts or a mechanical  
21 energy capacity of not more than 2,000 horse-  
22 power or an equivalent combination of electrical  
23 and mechanical energy capacities,

24 “(C) which produces—

1 “(i) at least 20 percent of its total  
 2 useful energy in the form of thermal en-  
 3 ergy which is not used to produce electrical  
 4 or mechanical power (or combination  
 5 thereof), and

6 “(ii) at least 20 percent of its total  
 7 useful energy in the form of electrical or  
 8 mechanical power (or combination thereof),

9 “(D) the energy efficiency percentage of  
 10 which exceeds 60 percent, and

11 “(E) which is placed in service before Jan-  
 12 uary 1, 2017.

13 “(2) SPECIAL RULES.—

14 “(A) ENERGY EFFICIENCY PERCENT-  
 15 AGE.—For purposes of this subsection, the en-  
 16 ergy efficiency percentage of a system is the  
 17 fraction—

18 “(i) the numerator of which is the  
 19 total useful electrical, thermal, and me-  
 20 chanical power produced by the system at  
 21 normal operating rates, and expected to be  
 22 consumed in its normal application, and

23 “(ii) the denominator of which is the  
 24 lower heating value of the fuel sources for  
 25 the system.

1           “(B) DETERMINATIONS MADE ON BTU  
2           BASIS.—The energy efficiency percentage and  
3           the percentages under paragraph (1)(C) shall  
4           be determined on a Btu basis.

5           “(C) INPUT AND OUTPUT PROPERTY NOT  
6           INCLUDED.—The term ‘combined heat and  
7           power system property’ does not include prop-  
8           erty used to transport the energy source to the  
9           facility or to distribute energy produced by the  
10          facility.

11          “(3) SYSTEMS USING BIOMASS.—If a system is  
12          designed to use biomass (within the meaning of  
13          paragraphs (2) and (3) of section 45(c) without re-  
14          gard to the last sentence of paragraph (3)(A)) for at  
15          least 90 percent of the energy source—

16                 “(A) paragraph (1)(D) shall not apply, but

17                 “(B) the amount of credit determined  
18                 under subsection (a) with respect to such sys-  
19                 tem shall not exceed the amount which bears  
20                 the same ratio to such amount of credit (deter-  
21                 mined without regard to this paragraph) as the  
22                 energy efficiency percentage of such system  
23                 bears to 60 percent.”.

24          (c) EFFECTIVE DATE.—The amendments made by  
25          this section shall apply to periods after the date of the

1 enactment of this Act, in taxable years ending after such  
 2 date, under rules similar to the rules of section 48(m) of  
 3 the Internal Revenue Code of 1986 (as in effect on the  
 4 day before the date of the enactment of the Revenue Rec-  
 5 onciliation Act of 1990).

6 **SEC. 205. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**  
 7 **TAIN ELECTRIC TRANSMISSION PROPERTY.**

8 (a) IN GENERAL.—Section 168 (relating to acceler-  
 9 ated cost recovery system) is amended by adding at the  
 10 end the following:

11 “(m) SPECIAL ALLOWANCE FOR CERTAIN ELECTRIC  
 12 TRANSMISSION PROPERTY.—

13 “(1) ADDITIONAL ALLOWANCE.—In the case of  
 14 any specified electric transmission property—

15 “(A) the depreciation deduction provided  
 16 by section 167(a) for the taxable year in which  
 17 such property is placed in service shall include  
 18 an allowance equal to 50 percent of the ad-  
 19 justed basis of such property, and

20 “(B) the adjusted basis of such property  
 21 shall be reduced by the amount of such deduc-  
 22 tion before computing the amount otherwise al-  
 23 lowable as a depreciation deduction under this  
 24 chapter for such taxable year and any subse-  
 25 quent taxable year.



1           “(2) SPECIFIED ELECTRIC TRANSMISSION  
 2       PROPERTY.—The term ‘specified electric trans-  
 3       mission property’ means property of a character  
 4       subject to the allowance for depreciation—

5           “(A) which is used in the United States as  
 6       a generator tie to solely transmit electricity  
 7       from any qualified facility described in section  
 8       45(d) (without regard to any placed in service  
 9       date or the last sentence of paragraph (4)  
 10      thereof) to the grid,

11          “(B) the original use of which commences  
 12      with the taxpayer after the date of the enact-  
 13      ment of this subsection,

14          “(C) which is acquired by the taxpayer by  
 15      purchase (as defined in section 179(d)) after  
 16      the date of the enactment of this subsection,  
 17      but only if no written binding contract for the  
 18      acquisition was in effect on or before the date  
 19      of the enactment of this subsection, and

20          “(D) which is placed in service by the tax-  
 21      payer before January 1, 2014.

22      “(3) EXCEPTIONS.—

23          “(A) ALTERNATIVE DEPRECIATION PROP-  
 24      PERTY.—Such term shall not include any prop-  
 25      erty described in section 168(k)(2)(D)(i).

1           “(B) ELECTION OUT.—If a taxpayer  
 2           makes an election under this subparagraph with  
 3           respect to any class of property for any taxable  
 4           year, this subsection shall not apply to all prop-  
 5           erty in such class placed in service during such  
 6           taxable year.

7           “(4) SPECIAL RULES.—For purposes of this  
 8           subsection, rules similar to the rules of subpara-  
 9           graph (E) of section 168(k)(2) shall apply, except  
 10          that such subparagraph shall be applied—

11           “(A) by substituting ‘the date of the enact-  
 12          ment of subsection (l)’ for ‘September 10,  
 13          2001’ each place it appears therein,

14           “(B) by substituting ‘January 1, 2014’ for  
 15          ‘January 1, 2005’ in clause (i) thereof, and

16           “(C) by substituting ‘specified electric  
 17          transmission property’ for ‘qualified property’  
 18          in clause (iv) thereof.

19           “(5) RECAPTURE.—For purposes of this sub-  
 20          section, rules similar to the rules under section  
 21          179(d)(10) shall apply with respect to any specified  
 22          electric transmission property which ceases to be  
 23          specified electric transmission property.”.

24          (b) EFFECTIVE DATE.—The amendment made by  
 25          this section shall apply to property placed in service after

1 the date of the enactment of this Act in taxable years end-  
 2 ing after such date.

3 **SEC. 206. EXTENSION OF SPECIAL RULE TO IMPLEMENT**  
 4 **FERC RESTRUCTURING POLICY.**

5 (a) QUALIFYING ELECTRIC TRANSMISSION TRANS-  
 6 ACTION.—

7 (1) IN GENERAL.—Section 451(i)(3) (defining  
 8 qualifying electric transmission transaction) is  
 9 amended by striking “January 1, 2008” and insert-  
 10 ing “January 1, 2010”.

11 (2) EFFECTIVE DATE.—The amendment made  
 12 by this subsection shall apply to transactions after  
 13 December 31, 2007.

14 (b) INDEPENDENT TRANSMISSION COMPANY.—

15 (1) IN GENERAL.—Section 451(i)(4)(B)(ii) (de-  
 16 fining independent transmission company) is amend-  
 17 ed by striking “December 31, 2007” and inserting  
 18 “the date which is 2 years after the date of such  
 19 transaction”.

20 (2) EFFECTIVE DATE.—The amendment made  
 21 by this subsection shall take effect as if included in  
 22 the amendments made by section 909 of the Amer-  
 23 ican Jobs Creation Act of 2004.

1 **SEC. 207. EXTENSION AND MODIFICATION OF CREDIT FOR**  
 2 **RESIDENTIAL ENERGY EFFICIENT PROP-**  
 3 **ERTY.**

4 (a) EXTENSION.—Section 25D(g) (relating to termi-  
 5 nation) is amended by striking “December 31, 2008” and  
 6 inserting “December 31, 2014”.

7 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-  
 8 ERTY.—

9 (1) IN GENERAL.—Section 25D(b)(1)(A) (relat-  
 10 ing to maximum credit) is amended by striking  
 11 “\$2,000” and inserting “\$4,000”.

12 (2) CONFORMING AMENDMENT.—Section  
 13 25D(e)(4)(A)(i) is amended by striking “\$6,667”  
 14 and inserting “\$13,334”.

15 (c) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to expenditures made after Decem-  
 17 ber 31, 2007.

18 **SEC. 208. CREDIT FOR RESIDENTIAL WIND PROPERTY.**

19 (a) IN GENERAL.—Section 25D(a) (relating to allow-  
 20 ance of credit) is amended by striking “and” at the end  
 21 of paragraph (2), by striking the period at the end of para-  
 22 graph (3) and inserting “, and”, and by adding at the  
 23 end the following new paragraph:

24 “(4) 30 percent of the qualified small wind en-  
 25 ergy property expenditures made by the taxpayer  
 26 during such year.”.

1 (b) LIMITATION.—Section 25D(b)(1) (relating to  
 2 maximum credit) is amended by striking “and” at the end  
 3 of subparagraph (B), by striking the period at the end  
 4 of subparagraph (A) and inserting “, and”, and by adding  
 5 at the end the following new subparagraph:

6 “(D) \$500 with respect to each half kilo-  
 7 watt of capacity (not to exceed \$4,000) of wind  
 8 turbines for which qualified small wind energy  
 9 property expenditures are made.”.

10 (c) QUALIFIED SMALL WIND ENERGY PROPERTY  
 11 EXPENDITURES.—

12 (1) IN GENERAL.—Section 25D(d) (relating to  
 13 definitions) is amended by adding at the end the fol-  
 14 lowing new paragraph:

15 “(4) QUALIFIED SMALL WIND ENERGY PROP-  
 16 erty expenditure.—The term ‘qualified small  
 17 wind energy property expenditure’ means an expend-  
 18 iture for property which uses a wind turbine to gen-  
 19 erate electricity for use in connection with a dwelling  
 20 unit located in the United States and used as a resi-  
 21 dence by the taxpayer.”.

22 (2) NO DOUBLE BENEFIT.—Section 45(d)(1)  
 23 (relating to wind facility) is amended by adding at  
 24 the end the following new sentence: “Such term shall  
 25 not include any facility with respect to which any

1 qualified small wind energy property expenditure (as  
 2 defined in subsection (d)(4) of section 25D) is taken  
 3 into account in determining the credit under such  
 4 section.”.

5 (d) MAXIMUM EXPENDITURES IN CASE OF JOINT  
 6 OCCUPANCY.—Section 25D(e)(4)(A) (relating to max-  
 7 imum expenditures) is amended by striking “and” at the  
 8 end of clause (iii), by striking the period at the end of  
 9 clause (iv) and inserting “, and”, and by adding at the  
 10 end the following new clause:

11 “(v) \$1,667 in the case of each half  
 12 kilowatt of capacity of wind turbines for  
 13 which qualified small wind energy property  
 14 expenditures are made.”.

15 (e) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to expenditures after December 31,  
 17 2007.

18 **SEC. 209. SEVEN-YEAR APPLICABLE RECOVERY PERIOD**  
 19 **FOR DEPRECIATION OF QUALIFIED ENERGY**  
 20 **MANAGEMENT DEVICES.**

21 (a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-  
 22 year property) is amended by striking “and” at the end  
 23 of clause (iv), by redesignating clause (v) as clause (vi),  
 24 and by inserting after clause (iv) the following new clause:

1 “(v) any qualified energy management  
2 device, and”.

3 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-  
4 MENT DEVICE.—Section 168(i) (relating to definitions  
5 and special rules) is amended by inserting at the end the  
6 following new paragraph:

7 “(18) QUALIFIED ENERGY MANAGEMENT DE-  
8 VICE.—

9 “(A) IN GENERAL.—The term ‘qualified  
10 energy management device’ means any energy  
11 management device which is placed in service  
12 before January 1, 2011, by a taxpayer who is  
13 a supplier of electric energy or a provider of  
14 electric energy services.

15 “(B) ENERGY MANAGEMENT DEVICE.—  
16 For purposes of subparagraph (A), the term  
17 ‘energy management device’ means any two-way  
18 communications network and associated equip-  
19 ment, including equipment installed on the  
20 premises of a consumer, which is used by the  
21 taxpayer—

22 “(i) to measure and record electricity  
23 usage data on a time-differentiated basis  
24 of at least 60 minutes, and

1 “(ii) to provide such data on demand  
2 to both consumers and the taxpayer.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act.

6 **SEC. 210. LANDOWNER INCENTIVE TO ENCOURAGE ELEC-**  
7 **TRIC TRANSMISSION BUILD-OUT.**

8 (a) IN GENERAL.—Part III of subchapter B of chap-  
9 ter 1 (relating to items specifically excluded from gross  
10 income) is amended by inserting after section 139A the  
11 following new section:

12 **“SEC. 139B. ELECTRIC TRANSMISSION EASEMENT PAY-**  
13 **MENTS.**

14 “(a) IN GENERAL.—Gross income shall not include  
15 any qualified electric transmission easement payment.

16 “(b) QUALIFIED ELECTRIC TRANSMISSION EASE-  
17 MENT PAYMENT.—For purposes of this section, the term  
18 ‘qualified electric transmission payment’ means any pay-  
19 ment by an electric utility or electric transmission entity  
20 pursuant to an easement or other agreement granted by  
21 the payee (or any predecessor of such payee) for the right  
22 of such entity (or any successors of such entity) to locate  
23 on such payee’s property transmission lines and equip-  
24 ment used to transmit electricity at 230 or more kilovolts  
25 primarily from qualified facilities described in section



1 45(d) (without regard to any placed in service date or the  
 2 last sentence of paragraph (4) thereof) or energy property  
 3 (as defined in section 48(a)(3)) placed in service after the  
 4 date of the enactment of this section.

5 “(c) NO INCREASE IN BASIS.—Notwithstanding any  
 6 other provision of this subtitle, no increase in the basis  
 7 or adjusted basis of any property shall result from any  
 8 amount excluded under this subsection with respect to  
 9 such property.

10 “(d) DENIAL OF DOUBLE BENEFIT.—Notwith-  
 11 standing any other provision of this subtitle, no deduction  
 12 or credit shall be allowed (to the person for whose benefit  
 13 a qualified electric transmission easement payment is  
 14 made) for, or by reason of, any expenditure to the extent  
 15 of the amount excluded under this section with respect to  
 16 such expenditure.”.

17 (b) CLERICAL AMENDMENT.—The table of sections  
 18 for such part III is amended by inserting after the item  
 19 relating to section 139A the following new item:

“Sec. 139B. Electric transmission easement payments.”.

20 (c) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to payments received after the date  
 22 of the enactment of this Act.

1 **SEC. 211. PARTIAL EXEMPTION FROM PASSIVE ACTIVITY**  
 2 **LIMITATIONS FOR QUALIFIED WIND FACILI-**  
 3 **TIES.**

4 (a) IN GENERAL.—Section 469 (relating to passive  
 5 activity losses and credits limited) is amended by redesigning  
 6 subsections (l) and (m) as subsections (m) and (n),  
 7 respectively, and by inserting after subsection (k) the following  
 8 new subsection:

9 “(l) \$40,000 OFFSET FOR QUALIFIED WIND FACILI-  
 10 TIES.—

11 “(1) IN GENERAL.—In the case of any natural  
 12 person, subsection (a) shall not apply to that portion  
 13 of the passive activity loss or the deduction equivalent  
 14 (within the meaning of subsection (j)(5)) of the  
 15 passive activity credit for any taxable year which is  
 16 attributable to any interest of such person in a facility  
 17 described in section 45(d)(1) (relating to wind facility).  
 18

19 “(2) DOLLAR LIMITATION.—The aggregate  
 20 amount to which paragraph (1) applies for any taxable  
 21 year shall not exceed \$40,000.

22 “(3) SPECIAL RULE FOR ESTATES.—

23 “(A) IN GENERAL.—In the case of taxable  
 24 years of an estate ending less than 2 years after  
 25 the date of the death of the decedent, this subsection  
 26 shall apply to any interest in a facility

1 described in section 45(d)(1) (relating to wind  
 2 facility) held by the decedent on the date of his  
 3 death.

4 “(B) REDUCTION FOR SURVIVING  
 5 SPOUSE’S EXEMPTION.—For purposes of sub-  
 6 paragraph (A), the \$40,000 amount under  
 7 paragraph (2) shall be reduced by the amount  
 8 of the exemption under paragraph (1) allowable  
 9 to the surviving spouse of the decedent for the  
 10 taxable year ending with or within the taxable  
 11 year of the estate.

12 “(4) MARRIED INDIVIDUALS FILING SEPA-  
 13 RATELY.—

14 “(A) IN GENERAL.—Except as provided in  
 15 subparagraph (B), in the case of any married  
 16 individual filing a separate return, this sub-  
 17 section shall be applied by substituting  
 18 ‘\$20,000’ for ‘\$40,000’ each place it appears.

19 “(B) TAXPAYERS NOT LIVING APART.—  
 20 This subsection shall not apply to a taxpayer  
 21 who—

22 “(i) is a married individual filing a  
 23 separate return for any taxable year, and

1 “(ii) does not live apart from his  
 2 spouse at all times during such taxable  
 3 year.”.

4 (b) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to losses and credits taken into  
 6 account in taxable years beginning after the date of the  
 7 enactment of this Act.

8 **SEC. 212. CREDIT FOR ELECTRICITY PRODUCED FROM**  
 9 **QUALIFIED WIND FACILITIES ALLOWED**  
 10 **AGAINST ALTERNATIVE MINIMUM TAX.**

11 (a) IN GENERAL.—Subparagraph (B) of section  
 12 38(c)(4) (relating to specified credits) is amended—

13 (1) by striking “and” at the end of clause (i),

14 (2) by inserting “(other than a facility de-  
 15 scribed in clause (iii))” after “facility” in clause  
 16 (ii)(I),

17 (3) by striking the period at the end of clause  
 18 (ii) and inserting “, and”, and

19 (4) by adding at the end the following new  
 20 clause:

21 “(iii) the credit determined under sec-  
 22 tion 45 to the extent that such credit is at-  
 23 tributable to electricity produced at a facil-  
 24 ity described in section 45(d)(1) (relating  
 25 to wind facility).”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 the date of the enactment of this Act.

4 **PART II—DOMESTIC FUEL SECURITY**

5 **SEC. 221. CREDIT FOR PRODUCTION OF CELLULOSIC BIO-**  
 6 **MASS ALCOHOL.**

7 (a) IN GENERAL.—Subsection (a) of section 40 (re-  
 8 lating to alcohol used as fuel) is amended by striking  
 9 “plus” at the end of paragraph (2), by striking the period  
 10 at the end of paragraph (3) and inserting “, plus”, and  
 11 by adding at the end the following new paragraph:

12 “(4) the small cellulosic alcohol producer cred-  
 13 it.”.

14 (b) SMALL CELLULOSIC ALCOHOL PRODUCER CRED-  
 15 IT.—

16 (1) IN GENERAL.—Subsection (b) of section 40  
 17 is amended by adding at the end the following new  
 18 paragraph:

19 “(6) SMALL CELLULOSIC ALCOHOL PRODUCER  
 20 CREDIT.—

21 “(A) IN GENERAL.—In addition to any  
 22 other credit allowed under this section, there  
 23 shall be allowed as a credit against the tax im-  
 24 posed by this chapter for the taxable year an

1 amount equal to the applicable amount for each  
 2 gallon of qualified cellulosic alcohol production.

3 “(B) APPLICABLE AMOUNT.—For purposes  
 4 of subparagraph (A), the applicable amount  
 5 means the excess of—

6 “(i) \$1.11, over

7 “(ii) the sum of—

8 “(I) the amount of the credit al-  
 9 lowable for alcohol which is ethanol  
 10 under subsection (b)(1) (without re-  
 11 gard to subsection (b)(3)) at the time  
 12 of the qualified cellulosic alcohol pro-  
 13 duction, plus

14 “(II) the amount of the credit al-  
 15 lowable under subsection (b)(4) at the  
 16 time of such production.

17 “(C) QUALIFIED CELLULOSIC ALCOHOL  
 18 PRODUCTION.—For purposes of this section,  
 19 the term ‘qualified cellulosic alcohol production’  
 20 means any cellulosic biomass alcohol which is  
 21 produced by an eligible small cellulosic alcohol  
 22 producer and which during the taxable year—

23 “(i) is sold by the taxpayer to another  
 24 person—

1                   “(I) for use by such other person  
2                   in the production of a qualified alco-  
3                   hol mixture in such other person’s  
4                   trade or business (other than casual  
5                   off-farm production),

6                   “(II) for use by such other per-  
7                   son as a fuel in a trade or business,  
8                   or

9                   “(III) who sells such cellulosic  
10                  biomass alcohol at retail to another  
11                  person and places such cellulosic bio-  
12                  mass alcohol in the fuel tank of such  
13                  other person, or

14                  “(ii) is used or sold by the taxpayer  
15                  for any purpose described in clause (i).

16                  “(D)   ADDITIONAL   DISTILLATION   EX-  
17                  CLUDED.—The qualified cellulosic alcohol pro-  
18                  duction of any taxpayer for any taxable year  
19                  shall not include any alcohol which is purchased  
20                  by the taxpayer and with respect to which such  
21                  producer increases the proof of the alcohol by  
22                  additional distillation.

23                  “(E)   APPLICATION OF PARAGRAPH.—This  
24                  paragraph shall apply with respect to qualified  
25                  cellulosic alcohol production—

1 “(i) after December 31, 2007, and  
 2 “(ii) before the end of the later of—  
 3 “(I) December 31, 2012, or  
 4 “(II) the calendar year in which  
 5 the Secretary, in consultation with the  
 6 Administrator of the Environmental  
 7 Protection Agency, certifies that  
 8 1,000,000,000 gallons of cellulosic  
 9 biomass alcohol (as so defined) have  
 10 been produced in or imported into the  
 11 United States after such date.”.

12 (2) TERMINATION DATE NOT TO APPLY.—Sub-  
 13 section (e) of section 40 (relating to termination) is  
 14 amended by adding at the end the following new  
 15 paragraph:

16 “(3) EXCEPTION FOR SMALL CELLULOSIC AL-  
 17 COHOL PRODUCER CREDIT.—Paragraph (1) shall  
 18 not apply to the portion of the credit allowed under  
 19 this section by reason of subsection (a)(4).”.

20 (c) ELIGIBLE SMALL CELLULOSIC ALCOHOL PRO-  
 21 DUCER.—Section 40 is amended by adding at the end the  
 22 following new subsection:

23 “(i) DEFINITIONS AND SPECIAL RULES FOR SMALL  
 24 CELLULOSIC ALCOHOL PRODUCER.—For purposes of this  
 25 section—



1           “(1) IN GENERAL.—The term ‘eligible small  
2           cellulosic alcohol producer’ means a person, who at  
3           all times during the taxable year, has a productive  
4           capacity for cellulosic biomass alcohol not in excess  
5           of 60,000,000 gallons.

6           “(2) CELLULOSIC BIOMASS ALCOHOL.—

7                   “(A) IN GENERAL.—The term ‘cellulosic  
8           biomass alcohol’ has the meaning given such  
9           term under section 168(l)(3), but does not in-  
10          clude any alcohol with a proof of less than 150.

11                   “(B) DETERMINATION OF PROOF.—The  
12          determination of the proof of any alcohol shall  
13          be made without regard to any added dena-  
14          turants.

15           “(3) AGGREGATION RULE.—For purposes of  
16          the 60,000,000 gallon limitation under paragraph  
17          (1), all members of the same controlled group of cor-  
18          porations (within the meaning of section 267(f)) and  
19          all persons under common control (within the mean-  
20          ing of section 52(b) but determined by treating an  
21          interest of more than 50 percent as a controlling in-  
22          terest) shall be treated as 1 person.

23           “(4) PARTNERSHIP, S CORPORATIONS, AND  
24          OTHER PASS-THRU ENTITIES.—In the case of a  
25          partnership, trust, S corporation, or other pass-thru

1       entity, the limitation contained in paragraph (1)  
 2       shall be applied at the entity level and at the partner  
 3       or similar level.

4           “(5) ALLOCATION.—For purposes of this sub-  
 5       section, in the case of a facility in which more than  
 6       1 person has an interest, productive capacity shall  
 7       be allocated among such persons in such manner as  
 8       the Secretary may prescribe.

9           “(6) REGULATIONS.—The Secretary may pre-  
 10      scribe such regulations as may be necessary to pre-  
 11      vent the credit provided for in subsection (a)(4)  
 12      from directly or indirectly benefitting any person  
 13      with a direct or indirect productive capacity of more  
 14      than 60,000,000 gallons of cellulosic biomass alcohol  
 15      during the taxable year.

16          “(7) ALLOCATION OF SMALL CELLULOSIC PRO-  
 17      DUCER CREDIT TO PATRONS OF COOPERATIVE.—  
 18      Rules similar to the rules under subsection (g)(6)  
 19      shall apply for purposes of this subsection.”.

20      (d) ALCOHOL NOT USED AS A FUEL, ETC.—

21          (1) IN GENERAL.—Paragraph (3) of section  
 22      40(d) is amended by redesignating subparagraph  
 23      (D) as subparagraph (E) and by inserting after sub-  
 24      paragraph (C) the following new subparagraph:

1                   “(D) SMALL CELLULOSIC ALCOHOL PRO-  
2                   DUCER CREDIT.—If—

3                   “(i) any credit is allowed under sub-  
4                   section (a)(4), and

5                   “(ii) any person does not use such  
6                   fuel for a purpose described in subsection  
7                   (b)(6)(C),

8                   then there is hereby imposed on such person a  
9                   tax equal to the applicable amount for each gal-  
10                  lon of such cellulosic biomass alcohol.”.

11               (2) CONFORMING AMENDMENTS.—

12               (A) Subparagraph (C) of section 40(d)(3)  
13               is amended by striking “PRODUCER” in the  
14               heading and inserting “SMALL ETHANOL PRO-  
15               DUCER”.

16               (B) Subparagraph (E) of section 40(d)(3),  
17               as redesignated by paragraph (1), is amended  
18               by striking “or (C)” and inserting “(C), or  
19               (D)”.

20               (e) EFFECTIVE DATE.—The amendments made by  
21               this section shall apply to fuel produced after December  
22               31, 2007.

1 **SEC. 222. EXPANSION OF SPECIAL ALLOWANCE TO CEL-**  
 2 **LULOSIC BIOMASS ALCOHOL FUEL PLANT**  
 3 **PROPERTY.**

4 (a) IN GENERAL.—Paragraph (3) of section 168(l)  
 5 (relating to special allowance for cellulosic biomass ethanol  
 6 plant property) is amended to read as follows:

7 “(3) CELLULOSIC BIOMASS ALCOHOL.—For  
 8 purposes of this subsection, the term ‘cellulosic bio-  
 9 mass alcohol’ means any alcohol produced from any  
 10 lignocellulosic or hemicellulosic matter that is avail-  
 11 able on a renewable or recurring basis.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Subsection (l) of section 168 is amended by  
 14 striking “cellulosic biomass ethanol” each place it  
 15 appears and inserting “cellulosic biomass alcohol”.

16 (2) The heading of section 168(l) is amended  
 17 by striking “CELLULOSIC BIOMASS ETHANOL” and  
 18 inserting “CELLULOSIC BIOMASS ALCOHOL”.

19 (3) The heading of paragraph (2) of section  
 20 168(l) is amended by striking “CELLULOSIC BIO-  
 21 MASS ETHANOL” and inserting “CELLULOSIC BIO-  
 22 MASS ALCOHOL”.

23 (c) EFFECTIVE DATE.—The amendments made by  
 24 this section shall apply to property placed in service after  
 25 the date of the enactment of this Act, in taxable years  
 26 ending after such date.

1 **SEC. 223. EXTENSION OF SMALL ETHANOL PRODUCER**  
 2 **CREDIT.**

3 Paragraph (1) of section 40(e) (relating to termi-  
 4 nation) is amended—

5 (1) in subparagraph (A), by inserting “(Decem-  
 6 ber 31, 2012, in the case of the credit allowed by  
 7 reason of subsection (a)(3))” after “December 31,  
 8 2010”, and

9 (2) in subparagraph (B), by inserting “(Janu-  
 10 ary 1, 2013, in the case of the credit allowed by rea-  
 11 son of subsection (a)(3))” after “January 1, 2011”.

12 **SEC. 224. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCO-**  
 13 **HOL.**

14 (a) IN GENERAL.—Subsection (a) of section 40 (re-  
 15 lating to alcohol used as fuel), as amended by this Act,  
 16 is amended by striking “plus” at the end of paragraph  
 17 (3), by striking the period at the end of paragraph (4)  
 18 and inserting “, plus”, and by adding at the end the fol-  
 19 lowing new paragraph:

20 “(5) the small fossil free alcohol producer cred-  
 21 it.”.

22 (b) SMALL FOSSIL FREE ALCOHOL PRODUCER  
 23 CREDIT.—Subsection (b) of section 40, as amended by  
 24 this Act, is amended by adding at the end the following  
 25 new paragraph:

1           “(7) SMALL FOSSIL FREE ALCOHOL PRODUCER  
2 CREDIT.—

3           “(A) IN GENERAL.—In addition to any  
4 other credit allowed under this section, there  
5 shall be allowed as a credit against the tax im-  
6 posed by this chapter for the taxable year an  
7 amount equal to 25 cents for each gallon of  
8 qualified fossil free alcohol production.

9           “(B) QUALIFIED FOSSIL FREE ALCOHOL  
10 PRODUCTION.—For purposes of this section,  
11 the term ‘qualified fossil free alcohol produc-  
12 tion’ means alcohol which is produced by an eli-  
13 gible small fossil free alcohol producer at a fos-  
14 sil free alcohol production facility and which  
15 during the taxable year—

16           “(i) is sold by the taxpayer to another  
17 person—

18           “(I) for use by such other person  
19 in the production of a qualified alco-  
20 hol mixture in such other person’s  
21 trade or business (other than casual  
22 off-farm production),

23           “(II) for use by such other per-  
24 son as a fuel in a trade or business,  
25 or

1                   “(III) who sells such alcohol at  
 2                   retail to another person and places  
 3                   such alcohol in the fuel tank of such  
 4                   other person, or

5                   “(ii) is used or sold by the taxpayer  
 6                   for any purpose described in clause (i).

7                   “(C)    ADDITIONAL    DISTILLATION    EX-  
 8                   CLUDED.—The qualified fossil free alcohol pro-  
 9                   duction of any taxpayer for any taxable year  
 10                  shall not include any alcohol which is purchased  
 11                  by the taxpayer and with respect to which such  
 12                  producer increases the proof of the alcohol by  
 13                  additional distillation.”.

14           (c) ELIGIBLE SMALL FOSSIL FREE ALCOHOL PRO-  
 15   DUCER.—Section 40, as amended by this Act, is amended  
 16   by adding at the end the following new subsection:

17           “(j) DEFINITIONS AND SPECIAL RULES FOR SMALL  
 18   FOSSIL FREE ALCOHOL PRODUCER.—For purposes of  
 19   this section—

20           “(1) IN GENERAL.—The term ‘eligible small  
 21   fossil free alcohol producer’ means a person, who at  
 22   all times during the taxable year, has a productive  
 23   capacity for alcohol from all fossil free alcohol pro-  
 24   duction facilities of the taxpayer which is not in ex-  
 25   cess of 60,000,000 gallons.

1           “(2) FOSSIL FREE ALCOHOL PRODUCTION FA-  
 2           CILITY.—The term ‘fossil free alcohol production fa-  
 3           cility’ means any facility at which 90 percent of the  
 4           fuel used in the production of alcohol is from bio-  
 5           mass (as defined in section 45K(c)(3)).

6           “(3) AGGREGATION RULE.—For purposes of  
 7           the 60,000,000 gallon limitation under paragraph  
 8           (1), all members of the same controlled group of cor-  
 9           porations (within the meaning of section 267(f)) and  
 10          all persons under common control (within the mean-  
 11          ing of section 52(b) but determined by treating an  
 12          interest of more than 50 percent as a controlling in-  
 13          terest) shall be treated as 1 person.

14          “(4) PARTNERSHIP, S CORPORATIONS, AND  
 15          OTHER PASS-THRU ENTITIES.—In the case of a  
 16          partnership, trust, S corporation, or other pass-thru  
 17          entity, the limitation contained in paragraph (1)  
 18          shall be applied at the entity level and at the partner  
 19          or similar level.

20          “(5) ALLOCATION.—For purposes of this sub-  
 21          section, in the case of a facility in which more than  
 22          1 person has an interest, productive capacity shall  
 23          be allocated among such persons in such manner as  
 24          the Secretary may prescribe.



1           “(6) REGULATIONS.—The Secretary may pre-  
 2       scribe such regulations as may be necessary to pre-  
 3       vent the credit provided for in subsection (a)(5)  
 4       from directly or indirectly benefitting any person  
 5       with a direct or indirect productive capacity of more  
 6       than 60,000,000 gallons of alcohol from fossil free  
 7       alcohol production facilities during the taxable year.

8           “(7) ALLOCATION OF SMALL FOSSIL FREE AL-  
 9       COHOL PRODUCER CREDIT TO PATRONS OF COOPER-  
 10      ATIVE.—Rules similar to the rules under subsection  
 11      (g)(6) shall apply for purposes of this subsection.”.

12      (d) ALCOHOL NOT USED AS A FUEL, ETC.—

13           (1) IN GENERAL.—Paragraph (3) of section  
 14      40(d), as amended by this Act, is amended by redes-  
 15      ignating subparagraph (E) as subparagraph (F) and  
 16      by inserting after subparagraph (D) the following  
 17      new subparagraph:

18           “(E) SMALL FOSSIL FREE ALCOHOL PRO-  
 19      DUCER CREDIT.—If—

20           “(i) any credit is allowed under sub-  
 21           section (a)(5), and

22           “(ii) any person does not use such  
 23           fuel for a purpose described in subsection  
 24           (b)(7)(B),

1           then there is hereby imposed on such person a  
2           tax equal to 25 cents for each gallon of such al-  
3           cohol.”.

4           (2) CONFORMING AMENDMENT.—Subparagraph  
5           (E) of section 40(d)(3), as redesignated by para-  
6           graph (1) and amended by this Act, is amended by  
7           striking “or (D)” and inserting “(C), or (E)”.

8           (e) TERMINATION.—Paragraph (1) of section 40(e),  
9           as amended by this Act, is amended—

10           (1) in subparagraph (A), by striking “(Decem-  
11           ber 31, 2012, in the case of the credit allowed by  
12           reason of subsection (a)(3))” and inserting “(De-  
13           cember 31, 2012, in the case of the credits allowed  
14           by reason of paragraphs (3) and (5) of subsection  
15           (a))”, and

16           (2) in subparagraph (B), by striking “(January  
17           1, 2013, in the case of the credit allowed by reason  
18           of subsection (a)(3))” and inserting “(January 1,  
19           2013, in the case of the credits allowed by reason of  
20           paragraphs (3) and (5) of subsection (a))”.

21           (f) EFFECTIVE DATE.—The amendments made by  
22           this section shall apply to fuel produced after December  
23           31, 2007.

1 **SEC. 225. MODIFICATION OF ALCOHOL CREDIT.**

2 (a) INCOME TAX CREDIT.—Subsection (h) of section  
3 40 (relating to reduced credit for ethanol blenders) is  
4 amended by adding at the end the following new para-  
5 graph:

6 “(3) REDUCED AMOUNT AFTER SALE OF  
7 7,500,000,000 GALLONS.—

8 “(A) IN GENERAL.—In the case of any cal-  
9 endar year beginning after the date described in  
10 subparagraph (B), the last row in the table in  
11 paragraph (2) shall be applied by substituting  
12 ‘46 cents’ for ‘51 cents’.

13 “(B) DATE DESCRIBED.—The date de-  
14 scribed in this subparagraph is the first date on  
15 which 7,500,000,000 gallons of ethanol (includ-  
16 ing cellulosic ethanol) have been produced in or  
17 imported into the United States after the date  
18 of the enactment of this paragraph, as certified  
19 by the Secretary, in consultation with the Ad-  
20 ministrator of the Environmental Protection  
21 Agency.”.

22 (b) EXCISE TAX CREDIT.—

23 (1) IN GENERAL.—Paragraph (2) of section  
24 6426(b) (relating to alcohol fuel mixture credit) is  
25 amended by adding at the end the following new  
26 subparagraph:

1           “(C) REDUCED AMOUNT AFTER SALE OF  
 2           7,500,000,000 GALLONS.—In the case of any alco-  
 3           hol fuel mixture produced in a calendar year be-  
 4           ginning after the date described in section  
 5           40(h)(3)(B), subparagraph (A) shall be applied  
 6           by substituting ‘46 cents’ for ‘51 cents’.”.

7           (2) CONFORMING AMENDMENT.—Subparagraph  
 8           (A) of section 6426(b)(2) is amended by striking  
 9           “subparagraph (B)” and inserting “subparagraphs  
 10          (B) and (C)”.

11          (c) EFFECTIVE DATE.—The amendments made by  
 12          this section shall take effect on the date of the enactment  
 13          of this Act.

14   **SEC. 226. EXTENSION AND MODIFICATION OF CREDIT FOR**  
 15           **BIODIESEL USED AS FUEL.**

16          (a) EXTENSION.—

17           (1) INCOME TAX CREDITS FOR BIODIESEL AND  
 18           RENEWABLE DIESEL AND SMALL AGRI-BIODIESEL  
 19           PRODUCER CREDIT.—Section 40A(g) (relating to  
 20           termination) is amended by striking “December 31,  
 21           2008” and inserting “December 31, 2010 (Decem-  
 22           ber 31, 2012, in the case of the credit allowed by  
 23           reason of subsection (a)(3))”.

1           (2) EXCISE TAX CREDIT.—Section 6426(c)(6)  
 2           (relating to termination) is amended by striking  
 3           “2008” and inserting “2010”.

4           (3) FUELS NOT USED FOR TAXABLE PUR-  
 5           POSES.—Section 6427(e)(5)(B) (relating to termi-  
 6           nation) is amended by striking “2008” and inserting  
 7           “2010”.

8           (b) MODIFICATION OF CREDIT FOR RENEWABLE  
 9           DIESEL.—

10           (1) IN GENERAL.—Section 40A(f) (relating to  
 11           renewable diesel) is amended by adding at the end  
 12           the following new paragraph:

13           “(4) SPECIAL RULE FOR CO-PROCESSED RE-  
 14           NEWABLE DIESEL.—In the case of a taxpayer which  
 15           produces renewable diesel through the co-processing  
 16           of biomass and petroleum at any facility, this sub-  
 17           section shall not apply to so much of the renewable  
 18           diesel produced at such facility and sold or used dur-  
 19           ing the taxable year in a qualified biodiesel mixture  
 20           as exceeds 60,000,000 gallons.”.

21           (c) MODIFICATION RELATING TO DEFINITION OF  
 22           AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (re-  
 23           lating to agri-biodiesel) is amended by striking “and mus-  
 24           tard seeds” and inserting “mustard seeds, and camelina”.

1 (d) EFFECTIVE DATES.—The amendments made by  
 2 this section shall apply to fuel sold or used after the date  
 3 of the enactment of this Act.

4 **SEC. 227. EXTENSION AND MODIFICATION OF ALTER-**  
 5 **NATIVE FUEL CREDIT.**

6 (a) EXTENSION.—

7 (1) ALTERNATIVE FUEL CREDIT.—Paragraph  
 8 (4) of section 6426(d) (relating to alternative fuel  
 9 credit) is amended by striking “September 30,  
 10 2009” and inserting “December 31, 2012”.

11 (2) ALTERNATIVE FUEL MIXTURE CREDIT.—  
 12 Paragraph (3) of section 6426(e) (relating to alter-  
 13 native fuel mixture credit) is amended by striking  
 14 “September 30, 2009” and inserting “December 31,  
 15 2012”.

16 (3) PAYMENTS.—Subparagraph (C) of section  
 17 6427(e)(5) (relating to termination) is amended by  
 18 striking “September 30, 2009” and inserting “De-  
 19 cember 31, 2012”.

20 (b) MODIFICATIONS.—

21 (1) ALTERNATIVE FUEL TO INCLUDE COM-  
 22 PRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph  
 23 (2) of section 6426(d) (relating to alternative fuel  
 24 credit) is amended by striking “and” at the end of  
 25 subparagraph (E), by redesignating subparagraph

1 (F) as subparagraph (G), and by inserting after sub-  
 2 paragraph (E) the following new subparagraph:

3 “(F) compressed or liquified biomass gas,  
 4 and”.

5 (2) CREDIT ALLOWED FOR AVIATION USE OF  
 6 FUEL.—Paragraph (1) of section 6426(d) is amend-  
 7 ed by inserting “sold by the taxpayer for use as a  
 8 fuel in aviation,” after “motorboat,”.

9 (c) CARBON CAPTURE REQUIREMENT FOR CERTAIN  
 10 FUELS.—

11 (1) IN GENERAL.—Subsection (d) of section  
 12 6426, as amended by subsection (a), is amended by  
 13 redesignating paragraph (4) as paragraph (5) and  
 14 by inserting after paragraph (3) the following new  
 15 paragraph:

16 “(4) CARBON CAPTURE REQUIREMENT.—The  
 17 requirements of this paragraph are met if the fuel  
 18 is certified, under such procedures as required by  
 19 the Secretary, as having been produced at a facility  
 20 which separates and sequesters not less than 75 per-  
 21 cent of such facility’s total carbon dioxide emis-  
 22 sions.”.

23 (2) CONFORMING AMENDMENT.—Subparagraph  
 24 (E) of section 6426(d)(2) is amended by inserting

1 “which meets the requirements of paragraph (4) and  
 2 which is” after “any liquid fuel”.

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-  
 5 graph (2), the amendments made by this section  
 6 shall apply to fuel sold or used after the date of the  
 7 enactment of this Act.

8 (2) CARBON CAPTURE REQUIREMENTS.—The  
 9 amendments made by subsection (c) shall apply to  
 10 fuel sold or used after December 31, 2007.

11 **SEC. 228. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**  
 12 **FUELING PROPERTY CREDIT.**

13 Paragraph (2) of section 30C(g) (relating to termi-  
 14 nation) is amended by striking “December 31, 2009” and  
 15 inserting “December 31, 2012”.

16 **SEC. 229. EXTENSION OF SUSPENSION OF TAXABLE IN-**  
 17 **COME LIMIT ON PERCENTAGE DEPLETION**  
 18 **FOR OIL AND NATURAL GAS PRODUCED**  
 19 **FROM MARGINAL PROPERTIES.**

20 Subparagraph (H) of section 613A(c)(6) (relating to  
 21 oil and gas produced from marginal properties) is amend-  
 22 ed by striking “January 1, 2008” and inserting “January  
 23 1, 2010”.



1 **SEC. 230. EXTENSION AND MODIFICATION OF ELECTION TO**  
 2 **EXPENSE CERTAIN REFINERIES.**

3 (a) EXTENSION.—Paragraph (1) of section 179C(c)  
 4 (relating to qualified refinery property) is amended—

5 (1) by striking “January 1, 2012” in subpara-  
 6 graph (B) and inserting “January 1, 2014”, and

7 (2) by striking “January 1, 2008” each place  
 8 it appears in subparagraph (F) and inserting “Janu-  
 9 ary 1, 2010”.

10 (b) INCLUSION OF FUEL DERIVED FROM SHALE AND  
 11 TAR SANDS.—

12 (1) IN GENERAL.—Subsection (d) of section  
 13 179C is amended by inserting “, or directly from  
 14 shale or tar sands” after “(as defined in section  
 15 45K(c))”.

16 (2) CONFORMING AMENDMENT.—Paragraph (2)  
 17 of section 179C(e) is amended by inserting “shale,  
 18 tar sands, or” before “qualified fuels”.

19 (c) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to property placed in service after  
 21 the date of the enactment of this Act.

22 **SEC. 231. ETHANOL TARIFF EXTENSION.**

23 Headings 9901.00.50 and 9901.00.52 of the Har-  
 24 monized Tariff Schedule of the United States are each  
 25 amended in the effective period column by striking “1/1/  
 26 2009” and inserting “1/1/2011”.

1 **SEC. 232. ELIMINATION AND REDUCTIONS OF DUTY DRAW-**  
 2 **BACK ON CERTAIN IMPORTED ETHANOL.**

3 (a) IN GENERAL.—Section 313(p)(3)(A)(i)(I) of the  
 4 Tariff Act of 1930 (19 U.S.C. 1313(p)(3)(A)(i)(I)) is  
 5 amended by striking “or” and inserting the following:  
 6 “other than an article that contains either—

7 “(aa) imported ethyl alcohol  
 8 (provided for in subheading  
 9 2207.10.60 or 2207.20.00 of  
 10 such Schedule), or

11 “(bb) any imported mixture  
 12 (provided for in heading 2710 or  
 13 3824 of such Schedule) that con-  
 14 tains ethyl alcohol, or”.

15 (b) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-  
 16 BACKS.—Section 313 of the Tariff Act of 1930 (19 U.S.C.  
 17 1313) is amended by adding at the end the following new  
 18 subsection:

19 “(z) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-  
 20 BACKS.—

21 “(1) LIMITATIONS.—

22 “(A) IN GENERAL.—Ethyl alcohol or mix-  
 23 ture containing ethyl alcohol described in sub-  
 24 paragraph (B) may be treated as being of the  
 25 same kind and quality under subsection (b) of  
 26 this section or may be treated as being commer-

1 cially interchangeable with any other ethyl alco-  
 2 hol or mixture containing ethyl alcohol under  
 3 subsection (j)(2) of this section, only if the  
 4 other ethyl alcohol or mixture—

5 “(i) if imported, is subject to the addi-  
 6 tional duty under subheading 9901.00.50  
 7 of the Harmonized Tariff Schedule of the  
 8 United States; or

9 “(ii) if domestic, is subject to Federal  
 10 excise tax under section 4041 or 4081 of  
 11 the Internal Revenue Code of 1986 in an  
 12 amount equal to or greater than the  
 13 amount of drawback claimed.

14 “(B) ETHYL ALCOHOL OR MIXTURE CON-  
 15 TAINING ETHYL ALCOHOL DESCRIBED.—Ethyl  
 16 alcohol or mixture containing ethyl alcohol de-  
 17 scribed in this subparagraph means—

18 “(i) ethyl alcohol classifiable under  
 19 subheading 2207.10.60 or 2207.20.00 of  
 20 the Harmonized Tariff Schedule of the  
 21 United States, or

22 “(ii) a mixture containing ethyl alco-  
 23 hol classifiable under heading 2710 or  
 24 3824 of the Harmonized Tariff Schedule of  
 25 the United States,

1           which, if imported would be subject to addi-  
 2           tional duty under subheading 9901.00.50 of  
 3           such Schedule.

4           “(2) REDUCTION OF DRAWBACK.—For pur-  
 5           poses of subsections (b), (j)(2), and (p) of this sec-  
 6           tion, the amount of the refund as drawback under  
 7           this section shall be reduced by an amount equal to  
 8           any Federal tax credit or refund of any Federal tax  
 9           paid on the merchandise with respect to which the  
 10          drawback is claimed.”.

11          (c) EFFECTIVE DATE.—The amendments made by  
 12          this section apply to articles exported on or after the date  
 13          that is 15 days after the date of the enactment of this  
 14          Act.

15      **SEC. 233. CERTAIN INCOME AND GAINS RELATING TO AL-**  
 16                      **COHOL FUEL MIXTURES, BIODIESEL FUEL**  
 17                      **MIXTURES, AND ALTERNATIVE FUEL TREAT-**  
 18                      **ED AS QUALIFYING INCOME FOR PUBLICLY**  
 19                      **TRADED PARTNERSHIPS.**

20          (a) IN GENERAL.—Subparagraph (E) of section  
 21          7704(d)(1) (defining qualifying income) is amended by in-  
 22          serting “, or the transportation or storage of any fuel de-  
 23          scribed in subsection (b), (c), or (d) of section 6426” after  
 24          “timber”).

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall take effect on the date of the enactment  
 3 of this Act, in taxable years ending after such date.

4 **SEC. 234. TECHNICAL AMENDMENTS.**

5 (a) AMENDMENTS RELATED TO SECTION 11113 OF  
 6 THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT  
 7 TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.—

8 (1) Paragraph (3) of section 6427(i) is amend-  
 9 ed—

10 (A) by inserting “or under subsection  
 11 (e)(2) by any person with respect to an alter-  
 12 native fuel (as defined in section 6426(d)(2))”  
 13 after “section 6426” in subparagraph (A),

14 (B) by inserting “or (e)(2)” after “sub-  
 15 section (e)(1)” in subparagraphs (A)(i) and  
 16 (B), and

17 (C) by inserting “AND ALTERNATIVE FUEL  
 18 CREDIT” after “MIXTURE CREDIT” in the head-  
 19 ing thereof.

20 (2)(A) Subparagraph (G) of section 6426(d)(2),  
 21 as redesignated by section 227, is amended by strik-  
 22 ing “hydrocarbons” and inserting “fuel”.

23 (B) Section 6426 is amended by adding at the  
 24 end the following new subsection:

1       “(h) DENIAL OF DOUBLE BENEFIT.—No credit shall  
 2 be determined under subsection (d) or (e) with respect to  
 3 any fuel which is described in subsection (b) or (c) or sec-  
 4 tion 40 or 40A.”.

5           (3) The amendments made by this subsection  
 6 shall take effect as if included in section 11113 of  
 7 the SAFETEA-LU.

8       (b) AMENDMENTS RELATED TO THE ENERGY POL-  
 9 ICY ACT OF 2005.—

10           (1) AMENDMENT RELATED TO SECTION 1342 OF  
 11 THE ACT.—

12           (A) So much of subsection (b) of section  
 13 30C as precedes paragraph (1) thereof is  
 14 amended to read as follows:

15       “(b) LIMITATION.—The credit allowed under sub-  
 16 section (a) with respect to all alternative fuel vehicle re-  
 17 fueling property placed in service by the taxpayer during  
 18 the taxable year at a location shall not exceed—”.

19           (B) Subsection (c) of section 30C is  
 20 amended to read as follows:

21       “(c) QUALIFIED ALTERNATIVE FUEL VEHICLE RE-  
 22 FUELING PROPERTY.—For purposes of this section, the  
 23 term ‘qualified alternative fuel vehicle refueling property’  
 24 has the same meaning as the term ‘qualified clean-fuel ve-

1 hicle refueling property’ would have under section 179A  
2 if—

3 “(1) paragraph (1) of section 179A(d) did not  
4 apply to property installed on property which is used  
5 as the principal residence (within the meaning of  
6 section 121) of the taxpayer, and

7 “(2) only the following were treated as clean  
8 burning fuels for purposes of section 179A(d):

9 “(A) Any fuel at least 85 percent of the  
10 volume of which consists of one or more of the  
11 following: ethanol, natural gas, compressed nat-  
12 ural gas, liquified natural gas, liquefied petro-  
13 leum gas, or hydrogen.

14 “(B) Biodiesel (as defined in section  
15 40A(d)(1)).

16 “(C) Any mixture—

17 “(i) which consists of two or more of  
18 the following: biodiesel (as so defined), die-  
19 sel fuel (as defined in section 4083(a)(3)),  
20 or kerosene, and

21 “(ii) at least 20 percent of the volume  
22 of which consists of biodiesel (as so de-  
23 fined) determined without regard to any  
24 kerosene in such mixture.”.

1           (2) AMENDMENTS RELATED TO SECTION 1362  
2       OF THE ACT.—

3           (A)(i) Paragraph (1) of section 4041(d) is  
4       amended by adding at the end the following  
5       new sentence: “No tax shall be imposed under  
6       the preceding sentence on the sale or use of any  
7       liquid if tax was imposed with respect to such  
8       liquid under section 4081 at the Leaking Un-  
9       derground Storage Tank Trust Fund financing  
10      rate.”.

11          (ii) Paragraph (3) of section 4042(b) is  
12      amended to read as follows:

13          “(3) EXCEPTION FOR FUEL ON WHICH LEAK-  
14      ING UNDERGROUND STORAGE TANK TRUST FUND FI-  
15      NANCING RATE SEPARATELY IMPOSED.—The Leak-  
16      ing Underground Storage Tank Trust Fund financ-  
17      ing rate under paragraph (2)(B) shall not apply to  
18      the use of any fuel if tax was imposed with respect  
19      to such fuel under section 4041(d) or 4081 at the  
20      Leaking Underground Storage Tank Trust Fund fi-  
21      nancing rate.”.

22          (iii) Notwithstanding section 6430 of the  
23      Internal Revenue Code of 1986, a refund, cred-  
24      it, or payment may be made under subchapter  
25      B of chapter 65 of such Code for taxes imposed



1 with respect to any liquid after September 30,  
2 2005, and before the date of the enactment of  
3 this Act under section 4041(d)(1) or 4042 of  
4 such Code at the Leaking Underground Storage  
5 Tank Trust Fund financing rate to the extent  
6 that tax was imposed with respect to such liq-  
7 uid under section 4081 at the Leaking Under-  
8 ground Storage Tank Trust Fund financing  
9 rate.

10 (B)(i) Paragraph (5) of section 4041(d) is  
11 amended—

12 (I) by striking “(other than with re-  
13 spect to any sale for export under para-  
14 graph (3) thereof)”, and

15 (II) by adding at the end the fol-  
16 lowing new sentence: “The preceding sen-  
17 tence shall not apply with respect to sub-  
18 section (g)(3) and so much of subsection  
19 (g)(1) as relates to vessels (within the  
20 meaning of section 4221(d)(3)) employed  
21 in foreign trade or trade between the  
22 United States and any of its possessions.”

23 (ii) Section 4082 is amended—

24 (I) by striking “(other than such tax  
25 at the Leaking Underground Storage Tank

1 Trust Fund financing rate imposed in all  
 2 cases other than for export)” in subsection  
 3 (a), and

4 (II) by redesignating subsections (f)  
 5 and (g) as subsections (g) and (h) and by  
 6 inserting after subsection (e) the following  
 7 new subsection:

8 “(f) EXCEPTION FOR LEAKING UNDERGROUND  
 9 STORAGE TANK TRUST FUND FINANCING RATE.—

10 “(1) IN GENERAL.—Subsection (a) shall not  
 11 apply to the tax imposed under section 4081 at the  
 12 Leaking Underground Storage Tank Trust Fund fi-  
 13 nancing rate.

14 “(2) EXCEPTION FOR EXPORT, ETC.—Para-  
 15 graph (1) shall not apply with respect to any fuel if  
 16 the Secretary determines that such fuel is destined  
 17 for export or for use by the purchaser as supplies for  
 18 vessels (within the meaning of section 4221(d)(3))  
 19 employed in foreign trade or trade between the  
 20 United States and any of its possessions.”.

21 (iii) Subsection (e) of section 4082 is  
 22 amended—

23 (I) by striking “an aircraft, the rate  
 24 of tax under section 4081(a)(2)(A)(iii)  
 25 shall be zero.” and inserting “an aircraft—

1 “(1) the rate of tax under section  
2 4081(a)(2)(A)(iii) shall be zero, and

3 “(2) if such aircraft is employed in foreign  
4 trade or trade between the United States and any of  
5 its possessions, the increase in such rate under sec-  
6 tion 4081(a)(2)(B) shall be zero.”; and

7 (II) by moving the last sentence flush  
8 with the margin of such subsection (fol-  
9 lowing the paragraph (2) added by clause  
10 (i)).

11 (iv) Section 6430 is amended to read as  
12 follows:

13 **“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UN-**  
14 **DERGROUND STORAGE TANK TRUST FUND**  
15 **FINANCING RATE.**

16 “No refunds, credits, or payments shall be made  
17 under this subchapter for any tax imposed at the Leaking  
18 Underground Storage Tank Trust Fund financing rate,  
19 except in the case of fuels—

20 “(1) which are exempt from tax under section  
21 4081(a) by reason of section 4081(f)(2),

22 “(2) which are exempt from tax under section  
23 4041(d) by reason of the last sentence of paragraph  
24 (5) thereof, or

1 “(3) with respect to which the rate increase  
 2 under section 4081(a)(2)(B) is zero by reason of  
 3 section 4082(e)(2).”.

4 (C) Paragraph (5) of section 4041(d) is  
 5 amended by inserting “(b)(1)(A)” after “sub-  
 6 sections”.

7 (3) EFFECTIVE DATE.—

8 (A) IN GENERAL.—Except as otherwise  
 9 provided in this paragraph, the amendments  
 10 made by this subsection shall take effect as if  
 11 included in the provisions of the Energy Policy  
 12 Act of 2005 to which they relate.

13 (B) NONAPPLICATION OF EXEMPTION FOR  
 14 OFF-HIGHWAY BUSINESS USE.—The amend-  
 15 ment made by paragraph (2)(C) shall apply to  
 16 fuel sold for use or used after the date of the  
 17 enactment of this Act.

18 (C) AMENDMENT MADE BY THE SAFETEA-  
 19 LU.—The amendment made by paragraph  
 20 (2)(B)(iii)(II) shall take effect as if included in  
 21 section 11161 of the SAFETEA-LU.

22 (c) AMENDMENTS RELATED TO SECTION 339 OF  
 23 THE AMERICAN JOBS CREATION ACT OF 2004.—

1           (1)(A) Section 45H is amended by striking sub-  
2           section (d) and by redesignating subsections (e), (f),  
3           and (g) as subsections (d), (e), and (f), respectively.

4           (B) Subsection (d) of section 280C is amended  
5           to read as follows:

6           “(d) CREDIT FOR LOW SULFUR DIESEL FUEL PRO-  
7           DUCTION.—The deductions otherwise allowed under this  
8           chapter for the taxable year shall be reduced by the  
9           amount of the credit determined for the taxable year  
10          under section 45H(a).”.

11          (C) Subsection (a) of section 1016 is amended  
12          by striking paragraph (31) and by redesignating  
13          paragraphs (32) through (37) as paragraphs (31)  
14          through (36), respectively.

15          (2)(A) Section 45H, as amended by paragraph  
16          (1), is amended by adding at the end the following  
17          new subsection:

18          “(g) ELECTION TO NOT TAKE CREDIT.—No credit  
19          shall be determined under subsection (a) for the taxable  
20          year if the taxpayer elects not to have subsection (a) apply  
21          to such taxable year.”.

22          (B) Subsection (m) of section 6501 is amended  
23          by inserting “45H(g),” after “45C(d)(4),”.

24          (3)(A) Subsections (b)(1)(A), (c)(2), (e)(1), and  
25          (e)(2) of section 45H (as amended by paragraph

1 (1)) and section 179B(a) are each amended by strik-  
 2 ing “qualified capital costs” and inserting “qualified  
 3 costs”.

4 (B) The heading of paragraph (2) of section  
 5 45H(c) is amended by striking “CAPITAL”.

6 (C) Subsection (a) of section 179B is amended  
 7 by inserting “and which are properly chargeable to  
 8 capital account” before the period at the end.

9 (4) The amendments made by this subsection  
 10 shall take effect as if included in section 339 of the  
 11 American Jobs Creation Act of 2004.

## 12 **PART III—ADVANCED TECHNOLOGY VEHICLES**

### 13 **SEC. 241. EXPANSION AND MODIFICATION OF CREDIT FOR** 14 **ALTERNATIVE FUEL MOTOR VEHICLES.**

15 (a) EXTENSION.—Section 30B(j) (relating to termi-  
 16 nation) is amended—

17 (1) by striking “December 31, 2014” in para-  
 18 graph (1) and inserting “December 31, 2016”,

19 (2) by striking “December 31, 2010” in para-  
 20 graph (2) and inserting “December 31, 2012”,

21 (3) by striking “December 31, 2009” in para-  
 22 graph (3) and inserting “December 31, 2012”, and

23 (4) by striking “December 31, 2010” in para-  
 24 graph (4) and inserting “December 31, 2012”.

1 (b) MODIFICATION RELATING TO NEW QUALIFIED  
 2 ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—The last  
 3 sentence of section 30B(e)(2) is amended to read as fol-  
 4 lows: “A new qualified alternative fuel motor vehicle which  
 5 weighs more than 14,000 pounds gross vehicle weight rat-  
 6 ing shall be deemed to satisfy the preceding sentence if  
 7 it is certified as exceeding the most stringent standard ap-  
 8 plicable to the model year in which such motor vehicle was  
 9 produced.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
 11 this section shall take effect on the date of the enactment  
 12 of this Act.

13 **SEC. 242. CREDIT FOR PLUG-IN ELECTRIC DRIVE MOTOR**  
 14 **VEHICLES.**

15 (a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE  
 16 CREDIT.—

17 (1) IN GENERAL.—Subpart B of part IV of  
 18 subchapter A of chapter 1 (relating to other credits)  
 19 is amended by adding at the end the following new  
 20 section:

21 **“SEC. 30D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE**  
 22 **CREDIT.**

23 “(a) ALLOWANCE OF CREDIT.—

24 “(1) IN GENERAL.—There shall be allowed as a  
 25 credit against the tax imposed by this chapter for

the taxable year an amount equal to the applicable amount with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

“(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is sum of—

“(A) \$2,500, plus

“(B) \$400 for each kilowatt hour of traction battery capacity of at least 5 kilowatt hours, plus

“(C) \$400 for each kilowatt hour of traction battery capacity in excess of 5 kilowatt hours.

“(b) LIMITATIONS.—

“(1) LIMITATION BASED ON WEIGHT.—The amount of the credit allowed under subsection (a) by reason of subsection (a)(2)(A) shall not exceed—

“(A) \$7,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds,

“(B) \$10,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than



1           10,000 pounds but not more than 14,000  
2           pounds,

3           “(C) \$12,500, in the case of any new  
4           qualified plug-in electric drive motor vehicle  
5           with a gross vehicle weight rating of more than  
6           14,000 pounds but not more than 26,000  
7           pounds, and

8           “(D) \$15,000, in the case of any new  
9           qualified plug-in electric drive motor vehicle  
10          with a gross vehicle weight rating of more than  
11          26,000 pounds.

12          “(2) LIMITATION ON NUMBER OF PASSENGER  
13          VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CRED-  
14          IT.—No credit shall be allowed under subsection (a)  
15          for any new qualified plug-in electric drive motor ve-  
16          hicle which is a passenger vehicle or light truck in  
17          any calendar year following the calendar year which  
18          includes the first date on which the total number of  
19          such new qualified plug-in electric drive motor vehi-  
20          cles sold for use in the United States after Decem-  
21          ber 31, 2007, is at least 250,000.

22          “(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE  
23          MOTOR VEHICLE.—For purposes of this section, the term  
24          ‘new qualified plug-in electric drive motor vehicle’ means  
25          a motor vehicle—

1           “(1) which draws propulsion using a traction  
2           battery with at least 4 kilowatt hours of capacity,

3           “(2) which uses an offboard source of energy to  
4           recharge such battery,

5           “(3) which, in the case of a passenger vehicle  
6           or light truck which has a gross vehicle weight rat-  
7           ing of not more than 8,500 pounds, has received a  
8           certificate of conformity under the Clean Air Act  
9           and meets or exceeds the equivalent qualifying Cali-  
10          fornia low emission vehicle standard under section  
11          243(e)(2) of the Clean Air Act for that make and  
12          model year, and

13               “(A) in the case of a vehicle having a gross  
14               vehicle weight rating of 6,000 pounds or less,  
15               the Bin 5 Tier II emission standard established  
16               in regulations prescribed by the Administrator  
17               of the Environmental Protection Agency under  
18               section 202(i) of the Clean Air Act for that  
19               make and model year vehicle, and

20               “(B) in the case of a vehicle having a gross  
21               vehicle weight rating of more than 6,000  
22               pounds but not more than 8,500 pounds, the  
23               Bin 8 Tier II emission standard which is so es-  
24               tablished,

1           “(4) the original use of which commences with  
2           the taxpayer,

3           “(5) which is acquired for use or lease by the  
4           taxpayer and not for resale, and

5           “(6) which is made by a manufacturer.

6           “(d) APPLICATION WITH OTHER CREDITS.—

7           “(1) BUSINESS CREDIT TREATED AS PART OF  
8           GENERAL BUSINESS CREDIT.—So much of the credit  
9           which would be allowed under subsection (a) for any  
10          taxable year (determined without regard to this sub-  
11          section) that is attributable to property of a char-  
12          acter subject to an allowance for depreciation shall  
13          be treated as a credit listed in section 38(b) for such  
14          taxable year (and not allowed under subsection (a)).

15          “(2) PERSONAL CREDIT.—The credit allowed  
16          under subsection (a) (after the application of para-  
17          graph (1)) for any taxable year shall not exceed the  
18          excess (if any) of—

19                 “(A) the regular tax liability (as defined in  
20                 section 26(b)) reduced by the sum of the credits  
21                 allowable under subpart A and sections 27, 30,  
22                 30B, and 30C, over

23                 “(B) the tentative minimum tax for the  
24                 taxable year.

1       “(e) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3           “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
4 cle’ has the meaning given such term by section  
5 30(c)(2).

6           “(2) OTHER TERMS.—The terms ‘passenger  
7 automobile’, ‘light truck’, and ‘manufacturer’ have  
8 the meanings given such terms in regulations pre-  
9 scribed by the Administrator of the Environmental  
10 Protection Agency for purposes of the administra-  
11 tion of title II of the Clean Air Act (42 U.S.C. 7521  
12 et seq.).

13           “(3) TRACTION BATTERY CAPACITY.—Traction  
14 battery capacity shall be measured in kilowatt hours  
15 from a 100 percent state of charge to a zero percent  
16 state of charge.

17           “(4) REDUCTION IN BASIS.—For purposes of  
18 this subtitle, the basis of any property for which a  
19 credit is allowable under subsection (a) shall be re-  
20 duced by the amount of such credit so allowed.

21           “(5) NO DOUBLE BENEFIT.—The amount of  
22 any deduction or other credit allowable under this  
23 chapter for a new qualified plug-in electric drive  
24 motor vehicle shall be reduced by the amount of

1 credit allowed under subsection (a) for such vehicle  
2 for the taxable year.

3 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-  
4 TY.—In the case of a vehicle the use of which is de-  
5 scribed in paragraph (3) or (4) of section 50(b) and  
6 which is not subject to a lease, the person who sold  
7 such vehicle to the person or entity using such vehi-  
8 cle shall be treated as the taxpayer that placed such  
9 vehicle in service, but only if such person clearly dis-  
10 closes to such person or entity in a document the  
11 amount of any credit allowable under subsection (a)  
12 with respect to such vehicle (determined without re-  
13 gard to subsection (b)(2)).

14 “(7) PROPERTY USED OUTSIDE UNITED  
15 STATES, ETC., NOT QUALIFIED.—No credit shall be  
16 allowable under subsection (a) with respect to any  
17 property referred to in section 50(b)(1) or with re-  
18 spect to the portion of the cost of any property  
19 taken into account under section 179.

20 “(8) RECAPTURE.—The Secretary shall, by reg-  
21 ulations, provide for recapturing the benefit of any  
22 credit allowable under subsection (a) with respect to  
23 any property which ceases to be property eligible for  
24 such credit (including recapture in the case of a

1        lease period of less than the economic life of a vehi-  
 2        cle).

3            “(9) ELECTION TO NOT TAKE CREDIT.—No  
 4        credit shall be allowed under subsection (a) for any  
 5        vehicle if the taxpayer elects not to have this section  
 6        apply to such vehicle.

7            “(10) INTERACTION WITH AIR QUALITY AND  
 8        MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-  
 9        erwise provided in this section, a motor vehicle shall  
 10       not be considered eligible for a credit under this sec-  
 11       tion unless such vehicle is in compliance with—

12            “(A) the applicable provisions of the Clean  
 13        Air Act for the applicable make and model year  
 14        of the vehicle (or applicable air quality provi-  
 15        sions of State law in the case of a State which  
 16        has adopted such provision under a waiver  
 17        under section 209(b) of the Clean Air Act), and

18            “(B) the motor vehicle safety provisions of  
 19        sections 30101 through 30169 of title 49,  
 20        United States Code.

21        “(f) REGULATIONS.—

22            “(1) IN GENERAL.—Except as provided in para-  
 23        graph (2), the Secretary shall promulgate such regu-  
 24        lations as necessary to carry out the provisions of  
 25        this section.

1           “(2) COORDINATION IN PRESCRIPTION OF CER-  
 2           TAIN REGULATIONS.—The Secretary of the Treas-  
 3           ury, in coordination with the Secretary of Transpor-  
 4           tation and the Administrator of the Environmental  
 5           Protection Agency, shall prescribe such regulations  
 6           as necessary to determine whether a motor vehicle  
 7           meets the requirements to be eligible for a credit  
 8           under this section.

9           “(g) TERMINATION.—This section shall not apply to  
 10          property purchased after December 31, 2014.”.

11           (2) COORDINATION WITH OTHER MOTOR VEHI-  
 12          CLE CREDITS.—

13                   (A) NEW QUALIFIED FUEL CELL MOTOR  
 14           VEHICLES.—Paragraph (3) of section 30B(b) is  
 15           amended by adding at the end the following  
 16           new flush sentence:

17           “Such term shall not include any motor vehicle  
 18           which is a new qualified plug-in electric drive motor  
 19           vehicle (as defined by section 30D(c)).”.

20                   (B) NEW QUALIFIED HYBRID MOTOR VEHI-  
 21           CLES.—Paragraph (3) of section 30B(d) is  
 22           amended by adding at the end the following  
 23           new flush sentence:

1 “Such term shall not include any motor vehicle  
 2 which is a new qualified plug-in electric drive motor  
 3 vehicle (as defined by section 30D(c)).”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Section 38(b) is amended by striking  
 6 “plus” at the end of paragraph (30), by strik-  
 7 ing the period at the end of paragraph (31) and  
 8 inserting “plus”, and by adding at the end the  
 9 following new paragraph:

10 “(32) the portion of the new qualified plug-in  
 11 electric drive motor vehicle credit to which section  
 12 30D(d)(1) applies.”.

13 (B) Section 55(c)(3) is amended by insert-  
 14 ing “30D(d)(2),” after “30C(d)(2),”.

15 (C) Section 1016(a), as amended by this  
 16 Act, is amended by striking “and” at the end  
 17 of paragraph (35), by striking the period at the  
 18 end of paragraph (36) and inserting “, and”,  
 19 and by adding at the end the following new  
 20 paragraph:

21 “(37) to the extent provided in section  
 22 30D(e)(4).”.

23 (D) Section 6501(m) is amended by insert-  
 24 ing “30D(e)(9)” after “30C(e)(5)”.



1                   (E) The table of sections for subpart B of  
 2                   part IV of subchapter A of chapter 1 is amend-  
 3                   ed by adding at the end the following new item:

“Sec. 30D. Plug-in electric drive motor vehicle credit.”.

4           (b) CONVERSION KITS.—

5                   (1) IN GENERAL.—Section 30B (relating to al-  
 6                   ternative motor vehicle credit) is amended by redes-  
 7                   ignating subsections (i) and (j) as subsections (j)  
 8                   and (k), respectively, and by inserting after sub-  
 9                   section (h) the following new subsection:

10          “(i) PLUG-IN CONVERSION CREDIT.—

11                   “(1) IN GENERAL.—For purposes of subsection  
 12                   (a), the plug-in conversion credit determined under  
 13                   this subsection with respect to any motor vehicle  
 14                   which is converted to a qualified plug-in electric  
 15                   drive motor vehicle is an amount equal to 10 percent  
 16                   of the cost of the plug-in traction battery module in-  
 17                   stalled in such vehicle as part of such conversion.

18                   “(2) LIMITATIONS.—The amount of the credit  
 19                   allowed under this subsection shall not exceed  
 20                   \$2,500 with respect to the conversion of any motor  
 21                   vehicle.

22                   “(3) DEFINITIONS AND SPECIAL RULES.—For  
 23                   purposes of this subsection—

24                               “(A) QUALIFIED PLUG-IN ELECTRIC DRIVE  
 25                   MOTOR VEHICLE.—The term ‘qualified plug-in

1 electric drive motor vehicle’ means any new  
2 qualified plug-in electric drive motor vehicle (as  
3 defined in section 30D(c), determined without  
4 regard to paragraphs (4) and (6) thereof).

5 “(B) PLUG-IN TRACTION BATTERY MOD-  
6 ULE.—The term ‘plug-in traction battery mod-  
7 ule’ means an electro-chemical energy storage  
8 device which—

9 “(i) has a traction battery capacity of  
10 not less than 2.5 kilowatt hours,

11 “(ii) is equipped with an electrical  
12 plug by means of which it can be energized  
13 and recharged when plugged into an exter-  
14 nal source of electric power,

15 “(iii) consists of a standardized con-  
16 figuration and is mass produced,

17 “(iv) has been tested and approved by  
18 the National Highway Transportation  
19 Safety Administration as compliant with  
20 applicable motor vehicle and motor vehicle  
21 equipment safety standards when installed  
22 by a mechanic with standardized training  
23 in protocols established by the battery  
24 manufacturer as part of a nationwide dis-  
25 tribution program, and

1 “(v) is certified by a battery manufac-  
 2 turer as meeting the requirements of  
 3 clauses (i) through (iv).

4 “(C) CREDIT ALLOWED TO LESSOR OF  
 5 BATTERY MODULE.—In the case of a plug-in  
 6 traction battery module which is leased to the  
 7 taxpayer, the credit allowed under this sub-  
 8 section shall be allowed to the lessor of the  
 9 plug-in traction battery module.

10 “(D) CREDIT ALLOWED IN ADDITION TO  
 11 OTHER CREDITS.—The credit allowed under  
 12 this subsection shall be allowed with respect to  
 13 a motor vehicle notwithstanding whether a cred-  
 14 it has been allowed with respect to such motor  
 15 vehicle under this section (other than this sub-  
 16 section) in any preceding taxable year.

17 “(4) TERMINATION.—This subsection shall not  
 18 apply to conversions made after December 31,  
 19 2009.”.

20 (2) CREDIT TREATED AS PART OF ALTER-  
 21 NATIVE MOTOR VEHICLE CREDIT.—Section 30B(a)  
 22 is amended by striking “and” at the end of para-  
 23 graph (3), by striking the period at the end of para-  
 24 graph (4) and inserting “, and”, and by adding at  
 25 the end the following new paragraph:

1           “(5) the plug-in conversion credit determined  
2           under subsection (i).”.

3           (3) NO RECAPTURE FOR VEHICLES CONVERTED  
4           TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VE-  
5           HICLES.—Paragraph (8) of section 30B(h) is  
6           amended by adding at the end the following: “, ex-  
7           cept that no benefit shall be recaptured if such prop-  
8           erty ceases to be eligible for such credit by reason  
9           of conversion to a qualified plug-in electric drive  
10          motor vehicle.”

11          (c) EFFECTIVE DATE.—The amendments made by  
12          this section shall apply to property placed in service after  
13          December 31, 2007, in taxable years beginning after such  
14          date.

15      **SEC. 243. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**  
16                              **REDUCTION UNITS AND ADVANCED INSULA-**  
17                              **TION ADDED AFTER PURCHASE.**

18          (a) IN GENERAL.—Section 4053 (relating to exemp-  
19          tions) is amended by adding at the end the following new  
20          paragraphs:

21                 “(7) IDLING REDUCTION DEVICE.—Any device  
22                 or system of devices which—

23                         “(A) is designed to provide to a vehicle  
24                         those services (such as heat, air conditioning, or  
25                         electricity) that would otherwise require the op-

1           eration of the main drive engine while the vehi-  
2           cle is temporarily parked or remains stationary  
3           using either—

4                   “(i) an all electric unit, such as a bat-  
5                   tery powered unit or from grid-supplied  
6                   electricity, or

7                   “(ii) a dual fuel unit powered by die-  
8                   sel or other fuels, and capable of providing  
9                   such services from grid-supplied electricity  
10                  or on-truck batteries alone, and

11               “(B) is certified by the Secretary of En-  
12               ergy, in consultation with the Administrator of  
13               the Environmental Protection Agency and the  
14               Secretary of Transportation, to reduce long-du-  
15               ration idling of such vehicle at a motor vehicle  
16               rest stop or other location where such vehicles  
17               are temporarily parked or remain stationary.

18       For purposes of subparagraph (B), the term ‘long-  
19       duration idling’ means the operation of a main drive  
20       engine, for a period greater than 15 consecutive  
21       minutes, where the main drive engine is not engaged  
22       in gear. Such term does not apply to routine stop-  
23       pages associated with traffic movement or conges-  
24       tion.

1           “(8) **ADVANCED INSULATION.**—Any insulation  
2           that has an R value of not less than R35 per inch.”.

3           (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to sales or installations after De-  
5 cember 31, 2007.

## 6           **PART IV—CONSERVATION AND ENERGY**

### 7                           **EFFICIENCY**

#### 8   **SEC. 251. EXTENSION AND MODIFICATION OF NONBUSI-** 9                           **NESS ENERGY PROPERTY CREDIT.**

10          (a) **EXTENSION OF CREDIT.**—Section 25C(g) (relat-  
11 ing to termination) is amended by striking “December 31,  
12 2007” and inserting “December 31, 2009”.

13          (b) **NATURAL GAS FIRED HEAT PUMPS.**—Section  
14 25C(d)(3) (relating to energy-efficient building property)  
15 is amended—

16               (1) by striking “and” at the end of subpara-  
17 graph (D),

18               (2) by striking the period at the end of sub-  
19 paragraph (E) and inserting “, and”, and

20               (3) by adding at the end the following new sub-  
21 paragraph:

22                       “(F) a natural gas fired heat pump with a  
23                       heating coefficient of performance (COP) of at  
24                       least 1.1.”.

1       (c) MODIFICATIONS OF STANDARDS FOR ENERGY-  
2 EFFICIENT BUILDING PROPERTY.—

3           (1) INCREASED LIMITATION FOR OIL FURNACES  
4       AND NATURAL GAS, PROPANE, AND OIL HOT WATER  
5       BOILERS.—

6           (A) IN GENERAL.—Subparagraphs (B) and  
7       (C) of section 25C(b)(3) are amended to read  
8       as follows:

9           “(B) \$150 for any qualified natural gas  
10       furnace or qualified propane furnace, and

11       “(C) \$300 for—

12           “(i) any item of energy-efficient build-  
13       ing property, and

14           “(ii) any qualified oil furnace, quali-  
15       fied natural gas hot water boiler, qualified  
16       propane hot water boiler, or qualified oil  
17       hot water boiler.”.

18       (B) CONFORMING AMENDMENT.—Clause  
19       (ii) of section 25C(d)(2)(A) is amended to read  
20       as follows:

21           “(ii) any qualified natural gas fur-  
22       nace, qualified propane furnace, qualified  
23       oil furnace, qualified natural gas hot water  
24       boiler, qualified propane hot water boiler,  
25       or qualified oil hot water boiler, or”.

1           (2) ELECTRIC HEAT PUMPS.—Subparagraph  
2           (B) of section 25C(d)(3) is amended to read as fol-  
3           lows:

4                   “(B) an electric heat pump which achieves  
5                   the highest efficiency tier established by the  
6                   Consortium for Energy Efficiency, as in effect  
7                   on January 1, 2008.”.

8           (3) WATER HEATERS.—Subparagraph (E) of  
9           section 25C(d)(3) is amended to read as follows:

10                   “(E) a natural gas, propane, or oil water  
11                   heater which has either an energy factor of at  
12                   least 0.80 or a thermal efficiency of at least 90  
13                   percent.”.

14           (4) OIL FURNACES AND HOT WATER BOIL-  
15           ERS.—Paragraph (4) of section 25C(d) is amended  
16           to read as follows:

17                   “(4) QUALIFIED NATURAL GAS, PROPANE, AND  
18                   OIL FURNACES AND HOT WATER BOILERS.—

19                   “(A) QUALIFIED NATURAL GAS FUR-  
20                   NACE.—The term ‘qualified natural gas fur-  
21                   nace’ means any natural gas furnace which  
22                   achieves an annual fuel utilization efficiency  
23                   rate of not less than 95.

24                   “(B) QUALIFIED NATURAL GAS HOT  
25                   WATER BOILER.—The term ‘qualified natural



1 gas hot water boiler’ means any natural gas hot  
 2 water boiler which achieves an annual fuel utili-  
 3 zation efficiency rate of not less than 90.

4 “(C) QUALIFIED PROPANE FURNACE.—  
 5 The term ‘qualified propane furnace’ means any  
 6 propane furnace which achieves an annual fuel  
 7 utilization efficiency rate of not less than 95.

8 “(D) QUALIFIED PROPANE HOT WATER  
 9 BOILER.—The term ‘qualified propane hot  
 10 water boiler’ means any propane hot water boil-  
 11 er which achieves an annual fuel utilization effi-  
 12 ciency rate of not less than 90.

13 “(E) QUALIFIED OIL FURNACES.—The  
 14 term ‘qualified oil furnace’ means any oil fur-  
 15 nace which achieves an annual fuel utilization  
 16 efficiency rate of not less than 90.

17 “(F) QUALIFIED OIL HOT WATER BOIL-  
 18 ER.—The term ‘qualified oil hot water boiler’  
 19 means any oil hot water boiler which achieves  
 20 an annual fuel utilization efficiency rate of not  
 21 less than 90.”.

22 (d) EFFECTIVE DATE.—The amendments made this  
 23 section shall apply to expenditures made after December  
 24 31, 2007.

1 **SEC. 252. EXTENSION AND MODIFICATION OF NEW ENERGY**  
 2 **EFFICIENT HOME CREDIT.**

3 (a) EXTENSION OF CREDIT.—Subsection (g) of sec-  
 4 tion 45L (relating to termination) is amended by striking  
 5 “December 31, 2008” and inserting “December 31,  
 6 2011”.

7 (b) MODIFICATION.—

8 (1) IN GENERAL.—Subparagraph (B) of section  
 9 45L(a)(1) is amended to read as follows:

10 “(B)(i) acquired by a person from such eli-  
 11 gible contractor and used by any person as a  
 12 residence during the taxable year, or

13 “(ii) used by such eligible contractor as a  
 14 residence during the taxable year.”.

15 (2) EFFECTIVE DATE.—The amendments made  
 16 by this subsection shall apply to homes purchased  
 17 after December 31, 2008.

18 **SEC. 253. EXTENSION AND MODIFICATION OF ENERGY EF-**  
 19 **FICIENT COMMERCIAL BUILDINGS DEDUC-**  
 20 **TION.**

21 (a) EXTENSION.—Section 179D(h) (relating to ter-  
 22 mination) is amended by striking “December 31, 2008”  
 23 and inserting “December 31, 2013”.

24 (b) ADJUSTMENT OF MAXIMUM DEDUCTION  
 25 AMOUNT.—

1           (1) IN GENERAL.—Subparagraph (A) of section  
 2       179D(b)(1) (relating to maximum amount of deduc-  
 3       tion) is amended by striking “\$1.80” and inserting  
 4       “\$2.25”.

5           (2) PARTIAL ALLOWANCE.—Paragraph (1) of  
 6       section 179D(d) is amended—

7                   (A) by striking “\$.60” and inserting  
 8                   “\$0.75”, and

9                   (B) by striking “\$1.80” and inserting  
 10                  “\$2.25”.

11       (c) EFFECTIVE DATE.—The amendments made by  
 12       this section shall apply to property placed in service after  
 13       the date of the enactment of this Act.

14       **SEC. 254. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
 15                   **ANCE CREDIT FOR APPLIANCES PRODUCED**  
 16                   **AFTER 2007.**

17       (a) IN GENERAL.—Section 45M of the Internal Rev-  
 18       enue Code of 1986 is amended to read as follows:

19       **“SEC. 45M. ENERGY EFFICIENT APPLIANCE CREDIT.**

20           “(a) GENERAL RULE.—

21                   “(1) IN GENERAL.—For purposes of section 38,  
 22       the energy efficient appliance credit determined  
 23       under this section for any taxable year is an amount  
 24       equal to the sum of the credit amounts determined  
 25       under paragraph (2) for each type of qualified en-

1       energy efficient appliance produced by the taxpayer  
2       during the calendar year ending with or within the  
3       taxable year.

4           “(2) CREDIT AMOUNTS.—The credit amount  
5       determined for any type of qualified energy efficient  
6       appliance is—

7           “(A) the applicable amount determined  
8       under subsection (b) with respect to such type,  
9       multiplied by

10          “(B) the eligible production for such type.

11       “(b) APPLICABLE AMOUNT.—For purposes of sub-  
12 section (a)—

13           “(1) DISHWASHERS.—The applicable amount is  
14       \$75 in the case of a residential model dishwasher  
15       which—

16           “(A) is manufactured in calendar year  
17       2008, 2009, or 2010, and

18           “(B) uses not more than 307 kilowatt  
19       hours per year and 5.0 gallons per cycle (5.5  
20       gallons for dishwashers designed for greater  
21       than 12 place settings).

22           “(2) CLOTHES WASHERS.—The applicable  
23       amount is—

24           “(A) \$125 in the case of a residential  
25       model top-loading clothes washer which—

1 “(i) is manufactured in calendar year  
2 2008 or 2009, and

3 “(ii) meets or exceeds a 1.8 MEF and  
4 does not exceed a 7.5 water consumption  
5 factor,

6 “(B) \$150 in the case of a residential or  
7 commercial model clothes washer which—

8 “(i) is manufactured in calendar year  
9 2008, 2009, or 2010, and

10 “(ii) meets or exceeds a 2.0 MEF and  
11 does not exceed a 6.0 water consumption  
12 factor, and

13 “(C) \$250 in the case of a residential or  
14 commercial model clothes washer which—

15 “(i) is manufactured in calendar year  
16 2008, 2009, or 2010, and

17 “(ii) meets or exceeds a 2.2 MEF and  
18 does not exceed a 4.5 water consumption  
19 factor.

20 “(3) REFRIGERATORS.—The applicable amount  
21 is—

22 “(A) \$75 in the case of a residential model  
23 refrigerator which—

24 “(i) is manufactured in calendar year  
25 2008 or 2009, and

1                   “(ii) consumes at least 23 percent,  
 2                   but not more than 24.9 percent, fewer kilo-  
 3                   watt hours per year than the 2001 energy  
 4                   conservation standards,

5                   “(B) \$100 in the case of a residential  
 6                   model refrigerator which—

7                   “(i) is manufactured in calendar year  
 8                   2008, 2009, or 2010, and

9                   “(ii) consumes at least 25 percent,  
 10                  but not more than 29.9 percent, fewer kilo-  
 11                  watt hours per year than the 2001 energy  
 12                  conservation standards, and

13                  “(C) \$200 in the case of a residential  
 14                  model refrigerator which—

15                  “(i) is manufactured in calendar year  
 16                  2008, 2009, or 2010, and

17                  “(ii) consumes at least 30 percent  
 18                  fewer kilowatt hours per year than the  
 19                  2001 energy conservation standards.

20                  “(c) ELIGIBLE PRODUCTION.—The eligible produc-  
 21                  tion in a calendar year with respect to each type of quali-  
 22                  fied energy efficient appliance is the excess of—

23                  “(1) the number of appliances of such type  
 24                  which are produced in the United States by the tax-  
 25                  payer during such calendar year, over

1           “(2) the average number of appliances of such  
 2           type which were produced in the United States by  
 3           the taxpayer (or any predecessor) during the pre-  
 4           ceding 2-calendar year period.

5           “(d) TYPES OF QUALIFIED ENERGY EFFICIENT AP-  
 6           PLIANCES.—For purposes of this section, the types of  
 7           qualified energy efficient appliances are—

8           “(1) dishwashers described in subsection (b)(1),

9           “(2) clothes washers described in subsection  
 10          (b)(2), and

11          “(3) refrigerators described in subsection  
 12          (b)(3).

13          “(e) LIMITATIONS.—

14          “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

15          Except as provided in paragraph (2), the aggregate  
 16          amount of credit allowed under subsection (a) with  
 17          respect to a taxpayer for any taxable year shall not  
 18          exceed \$75,000,000 reduced by the amount of the  
 19          credit allowed under subsection (a) to the taxpayer  
 20          (or any predecessor) for all prior taxable years be-  
 21          ginning after December 31, 2007.

22          “(2) LIMITATION BASED ON GROSS RE-  
 23          CEIPTS.—The credit allowed under subsection (a)  
 24          with respect to a taxpayer for the taxable year shall  
 25          not exceed an amount equal to 2 percent of the aver-

1       age annual gross receipts of the taxpayer for the 3  
2       taxable years preceding the taxable year in which  
3       the credit is determined beginning after December  
4       31, 2007.

5           “(3) GROSS RECEIPTS.—For purposes of this  
6       subsection, the rules of paragraphs (2) and (3) of  
7       section 448(c) shall apply.

8       “(f) DEFINITIONS.—For purposes of this section:

9           “(1) DISHWASHER.—The term ‘dishwasher’  
10      means a dishwasher subject to the energy conserva-  
11      tion standards established by the Department of En-  
12      ergy.

13          “(2) CLOTHES WASHER.—The term ‘clothes  
14      washer’ includes a clothes washer subject to the en-  
15      ergy conservation standards established by the De-  
16      partment of Energy.

17          “(3) TOP-LOADING CLOTHES WASHER.—The  
18      term ‘top-loading clothes washer’ means a clothes  
19      washer with the clothes container compartment ac-  
20      cess located on the top of the machine.

21          “(4) REFRIGERATOR.—The term ‘refrigerator’  
22      means an automatic defrost refrigerator-freezer  
23      which has an internal volume of at least 16.5 cubic  
24      feet.



1           “(5) GALLONS PER CYCLE.—The term ‘gallons  
2           per cycle’ means the amount of water, expressed in  
3           gallons, required to complete a normal cycle of a  
4           dishwasher.

5           “(6) MEF.—The term ‘MEF’ means the modi-  
6           fied energy factor established by the Department of  
7           Energy for compliance with the Federal energy con-  
8           servation standard.

9           “(7) WATER CONSUMPTION FACTOR.—The  
10          term ‘water consumption factor’ means the quotient  
11          of the total weighted per-cycle water consumption di-  
12          vided by the cubic foot capacity of the clothes wash-  
13          er.

14          “(8) 2001 ENERGY CONSERVATION STAND-  
15          ARD.—The term ‘2001 energy conservation stand-  
16          ard’ means the energy conservation standards pro-  
17          mulgated by the Department of Energy and effective  
18          July 1, 2001.

19          “(g) SPECIAL RULES.—For purposes of this section:

20               “(1) IN GENERAL.—Rules similar to the rules  
21               of subsections (c), (d), and (e) of section 52 shall  
22               apply.

23               “(2) CONTROLLED GROUP.—

24                       “(A) IN GENERAL.—All persons treated as  
25                       a single employer under subsection (a) or (b) of

1 section 52 or subsection (m) or (o) of section  
2 414 shall be treated as a single producer.

3 “(B) INCLUSION OF FOREIGN CORPORA-  
4 TIONS.—For purposes of subparagraph (A), in  
5 applying subsections (a) and (b) of section 52  
6 to this section, section 1563 shall be applied  
7 without regard to subsection (b)(2)(C) thereof.

8 “(3) VERIFICATION.—No amount shall be al-  
9 lowed as a credit under subsection (a) with respect  
10 to which the taxpayer has not submitted such infor-  
11 mation or certification as the Secretary, in consulta-  
12 tion with the Secretary of Energy, determines nec-  
13 essary.”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to appliances produced after De-  
16 cember 31, 2007.

17 **SEC. 255. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**  
18 **TAIN REUSE AND RECYCLING PROPERTY.**

19 (a) IN GENERAL.—Section 168 of the Internal Rev-  
20 enue Code of 1986 (relating to accelerated cost recovery  
21 system) (as amended by section 205) is amended by add-  
22 ing at the end the following new subsection:

23 “(n) SPECIAL ALLOWANCE FOR CERTAIN REUSE  
24 AND RECYCLING PROPERTY.—

1           “(1) IN GENERAL.—In the case of any qualified  
2       reuse and recycling property—

3           “(A) the depreciation deduction provided  
4       by section 167(a) for the taxable year in which  
5       such property is placed in service shall include  
6       an allowance equal to 50 percent of the ad-  
7       justed basis of the qualified reuse and recycling  
8       property, and

9           “(B) the adjusted basis of the qualified  
10      reuse and recycling property shall be reduced by  
11      the amount of such deduction before computing  
12      the amount otherwise allowable as a deprecia-  
13      tion deduction under this chapter for such tax-  
14      able year and any subsequent taxable year.

15          “(2) QUALIFIED REUSE AND RECYCLING PROP-  
16      ERTY.—For purposes of this subsection—

17          “(A) IN GENERAL.—The term ‘qualified  
18      reuse and recycling property’ means any reuse  
19      and recycling property—

20                  “(i) to which this section applies,

21                  “(ii) which has a useful life of at least  
22                  5 years,

23                  “(iii) the original use of which com-  
24      mences with the taxpayer after December  
25      31, 2006, and

1 “(iv) which is—

2 “(I) acquired by purchase (as de-  
3 fined in section 179(d)(2)) by the tax-  
4 payer after December 31, 2006, but  
5 only if no written binding contract for  
6 the acquisition was in effect before  
7 January 1, 2007, or

8 “(II) acquired by the taxpayer  
9 pursuant to a written binding contract  
10 which was entered into after Decem-  
11 ber 31, 2006.

12 “(B) EXCEPTIONS.—

13 “(i) ALTERNATIVE DEPRECIATION  
14 PROPERTY.—The term ‘qualified reuse and  
15 recycling property’ shall not include any  
16 property to which the alternative deprecia-  
17 tion system under subsection (g) applies,  
18 determined without regard to paragraph  
19 (7) of subsection (g) (relating to election to  
20 have system apply).

21 “(ii) ELECTION OUT.—If a taxpayer  
22 makes an election under this clause with  
23 respect to any class of property for any  
24 taxable year, this subsection shall not

1           apply to all property in such class placed  
2           in service during such taxable year.

3           “(C) SPECIAL RULE FOR SELF-CON-  
4           STRUCTED PROPERTY.—In the case of a tax-  
5           payer manufacturing, constructing, or pro-  
6           ducing property for the taxpayer’s own use, the  
7           requirements of clause (iv) of subparagraph (A)  
8           shall be treated as met if the taxpayer begins  
9           manufacturing, constructing, or producing the  
10          property after December 31, 2006.

11          “(D) DEDUCTION ALLOWED IN COM-  
12          PUTING MINIMUM TAX.—For purposes of deter-  
13          mining alternative minimum taxable income  
14          under section 55, the deduction under sub-  
15          section (a) for qualified reuse and recycling  
16          property shall be determined under this section  
17          without regard to any adjustment under section  
18          56.

19          “(3) DEFINITIONS.—For purposes of this sub-  
20          section—

21                 “(A) REUSE AND RECYCLING PROPERTY.—

22                         “(i) IN GENERAL.—The term ‘reuse  
23                         and recycling property’ means any machin-  
24                         ery and equipment (not including buildings  
25                         or real estate), along with all appur-

1 tenances thereto, including software nec-  
2 essary to operate such equipment, which is  
3 used exclusively to recycle qualified mate-  
4 rials.

5 “(ii) EXCLUSION.—Such term does  
6 not include—

7 “(I) rolling stock or other equip-  
8 ment used to transport qualified ma-  
9 terials, and

10 “(II) equipment used to produce  
11 new products or commodities from re-  
12 cycled products.

13 “(B) QUALIFIED MATERIALS.—

14 “(i) IN GENERAL.—The term ‘quali-  
15 fied materials’ means scrap plastic, scrap  
16 glass, scrap textiles, scrap rubber (includ-  
17 ing used tires), scrap packaging, recovered  
18 fiber, scrap ferrous and nonferrous metals,  
19 or electronic scrap generated by an indi-  
20 vidual or business.

21 “(ii) ELECTRONIC SCRAP.—For pur-  
22 poses of clause (i), the term ‘electronic  
23 scrap’ means—

24 “(I) any cathode ray tube, flat  
25 panel screen, or similar video display

1 device with a screen size greater than  
 2 4 inches measured diagonally, or

3 “(II) any central processing unit.

4 “(C) RECYCLING OR RECYCLE.—The term  
 5 ‘recycling’ or ‘recycle’ means that process (in-  
 6 cluding sorting and collecting) by which worn or  
 7 superfluous materials are manufactured or  
 8 processed into specification grade commodities  
 9 that are suitable for use as a replacement or  
 10 substitute for virgin materials in manufacturing  
 11 tangible consumer and commercial products, in-  
 12 cluding packaging.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
 14 this section shall apply to property placed in service after  
 15 December 31, 2007.

## 16 **Subtitle B—Revenue Raising** 17 **Provisions**

### 18 **SEC. 261. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED** 19 **OIL COMPANIES FOR INCOME ATTRIBUTABLE** 20 **TO DOMESTIC PRODUCTION OF OIL, NAT-** 21 **URAL GAS, OR PRIMARY PRODUCTS THERE-** 22 **OF.**

23 (a) IN GENERAL.—Subparagraph (B) of section  
 24 199(c)(4) of the Internal Revenue Code of 1986 (relating  
 25 to exceptions) is amended by striking “or” at the end of

1 clause (ii), by striking the period at the end of clause (iii)  
 2 and inserting “, or”, and by inserting after clause (iii) the  
 3 following new clause:

4 “(iv) in the case of any major inte-  
 5 grated oil company (as defined in section  
 6 167(h)(5)(B)), the production, refining,  
 7 processing, transportation, or distribution  
 8 of oil, natural gas, or any primary product  
 9 thereof during any taxable year described  
 10 in section 167(h)(5)(B).”.

11 (b) PRIMARY PRODUCT.—Section 199(c)(4)(B) of  
 12 such Code is amended by adding at the end the following  
 13 flush sentence:

14 “For purposes of clause (iv), the term ‘primary  
 15 product’ has the same meaning as when used in  
 16 section 927(a)(2)(C), as in effect before its re-  
 17 peal.”.

18 (c) CONFORMING AMENDMENTS.—Section 199(c)(4)  
 19 of such Code is amended—

20 (1) in subparagraph (A)(i)(III) by striking  
 21 “electricity, natural gas,” and inserting “electricity”,  
 22 and

23 (2) in subparagraph (B)(ii) by striking “elec-  
 24 tricity, natural gas,” and inserting “electricity”.



1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2007.

4 **SEC. 262. ELIMINATION OF THE DIFFERENT TREATMENT**  
 5 **OF FOREIGN OIL AND GAS EXTRACTION IN-**  
 6 **COME AND FOREIGN OIL RELATED INCOME**  
 7 **FOR PURPOSES OF THE FOREIGN TAX CRED-**  
 8 **IT.**

9 (a) IN GENERAL.—Subsections (a) and (b) of section  
 10 907 (relating to special rules in case of foreign oil and  
 11 gas income) are amended to read as follows:

12 “(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN  
 13 TAX UNDER SECTION 901.—In applying section 901, the  
 14 amount of any foreign oil and gas taxes paid or accrued  
 15 (or deemed to have been paid) during the taxable year  
 16 which would (but for this subsection) be taken into ac-  
 17 count for purposes of section 901 shall be reduced by the  
 18 amount (if any) by which the amount of such taxes ex-  
 19 ceeds the product of—

20 “(1) the amount of the combined foreign oil  
 21 and gas income for the taxable year,

22 “(2) multiplied by—

23 “(A) in the case of a corporation, the per-  
 24 centage which is equal to the highest rate of tax  
 25 specified under section 11(b), or

1           “(B) in the case of an individual, a frac-  
 2           tion the numerator of which is the tax against  
 3           which the credit under section 901(a) is taken  
 4           and the denominator of which is the taxpayer’s  
 5           entire taxable income.

6           “(b) COMBINED FOREIGN OIL AND GAS INCOME;  
 7 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-  
 8 tion—

9           “(1) COMBINED FOREIGN OIL AND GAS IN-  
 10 COME.—The term ‘combined foreign oil and gas in-  
 11 come’ means, with respect to any taxable year, the  
 12 sum of—

13           “(A) foreign oil and gas extraction income,  
 14           and

15           “(B) foreign oil related income.

16           “(2) FOREIGN OIL AND GAS TAXES.—The term  
 17 ‘foreign oil and gas taxes’ means, with respect to  
 18 any taxable year, the sum of—

19           “(A) oil and gas extraction taxes, and

20           “(B) any income, war profits, and excess  
 21 profits taxes paid or accrued (or deemed to  
 22 have been paid or accrued under section 902 or  
 23 960) during the taxable year with respect to  
 24 foreign oil related income (determined without  
 25 regard to subsection (c)(4)) or loss which would

1           be taken into account for purposes of section  
2           901 without regard to this section.”.

3           (b) RECAPTURE OF FOREIGN OIL AND GAS  
4 LOSSES.—Paragraph (4) of section 907(c) (relating to re-  
5 capture of foreign oil and gas extraction losses by re-  
6 characterizing later extraction income) is amended to read  
7 as follows:

8           “(4) RECAPTURE OF FOREIGN OIL AND GAS  
9       LOSSES BY RECHARACTERIZING LATER COMBINED  
10       FOREIGN OIL AND GAS INCOME.—

11           “(A) IN GENERAL.—The combined foreign  
12       oil and gas income of a taxpayer for a taxable  
13       year (determined without regard to this para-  
14       graph) shall be reduced—

15           “(i) first by the amount determined  
16       under subparagraph (B), and

17           “(ii) then by the amount determined  
18       under subparagraph (C).

19       The aggregate amount of such reductions shall  
20       be treated as income (from sources without the  
21       United States) which is not combined foreign  
22       oil and gas income.

23           “(B) REDUCTION FOR PRE-2008 FOREIGN  
24       OIL   EXTRACTION   LOSSES.—The   reduction

1 under this paragraph shall be equal to the less-  
2 er of—

3 “(i) the foreign oil and gas extraction  
4 income of the taxpayer for the taxable year  
5 (determined without regard to this para-  
6 graph), or

7 “(ii) the excess of—

8 “(I) the aggregate amount of for-  
9 eign oil extraction losses for preceding  
10 taxable years beginning after Decem-  
11 ber 31, 1982, and before January 1,  
12 2008, over

13 “(II) so much of such aggregate  
14 amount as was recharacterized under  
15 this paragraph (as in effect before  
16 and after the date of the enactment of  
17 the Energy Advancement and Invest-  
18 ment Act of 2007) for preceding tax-  
19 able years beginning after December  
20 31, 1982.

21 “(C) REDUCTION FOR POST-2007 FOREIGN  
22 OIL AND GAS LOSSES.—The reduction under  
23 this paragraph shall be equal to the lesser of—

24 “(i) the combined foreign oil and gas  
25 income of the taxpayer for the taxable year

(determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

“(ii) the excess of—

“(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2007, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2007.

“(D) FOREIGN OIL AND GAS LOSS DEFINED.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘foreign oil and gas loss’ means the amount by which—

“(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in

1 determining the combined foreign oil  
2 and gas income for such year, is ex-  
3 ceeded by

4 “(II) the sum of the deductions  
5 properly apportioned or allocated  
6 thereto.

7 “(ii) NET OPERATING LOSS DEDUC-  
8 TION NOT TAKEN INTO ACCOUNT.—For  
9 purposes of clause (i), the net operating  
10 loss deduction allowable for the taxable  
11 year under section 172(a) shall not be  
12 taken into account.

13 “(iii) EXPROPRIATION AND CASUALTY  
14 LOSSES NOT TAKEN INTO ACCOUNT.—For  
15 purposes of clause (i), there shall not be  
16 taken into account—

17 “(I) any foreign expropriation  
18 loss (as defined in section 172(h) (as  
19 in effect on the day before the date of  
20 the enactment of the Revenue Rec-  
21 onciliation Act of 1990)) for the tax-  
22 able year, or

23 “(II) any loss for the taxable  
24 year which arises from fire, storm,

1 shipwreck, or other casualty, or from  
 2 theft,  
 3 to the extent such loss is not compensated  
 4 for by insurance or otherwise.

5 “(iv) FOREIGN OIL EXTRACTION  
 6 LOSS.—For purposes of subparagraph  
 7 (B)(ii)(I), foreign oil extraction losses shall  
 8 be determined under this paragraph as in  
 9 effect on the day before the date of the en-  
 10 actment of the Energy Advancement and  
 11 Investment Act of 2007.”.

12 (c) CARRYBACK AND CARRYOVER OF DISALLOWED  
 13 CREDITS.—Section 907(f) (relating to carryback and car-  
 14 ryover of disallowed credits) is amended—

15 (1) by striking “oil and gas extraction taxes”  
 16 each place it appears and inserting “foreign oil and  
 17 gas taxes”, and

18 (2) by adding at the end the following new  
 19 paragraph:

20 “(4) TRANSITION RULES FOR PRE-2008 AND  
 21 2008 DISALLOWED CREDITS.—

22 “(A) PRE-2008 CREDITS.—In the case of  
 23 any unused credit year beginning before Janu-  
 24 ary 1, 2008, this subsection shall be applied to  
 25 any unused oil and gas extraction taxes carried

1 from such unused credit year to a year begin-  
 2 ning after December 31, 2007—

3 “(i) by substituting ‘oil and gas ex-  
 4 traction taxes’ for ‘foreign oil and gas  
 5 taxes’ each place it appears in paragraphs  
 6 (1), (2), and (3), and

7 “(ii) by computing, for purposes of  
 8 paragraph (2)(A), the limitation under  
 9 subparagraph (A) for the year to which  
 10 such taxes are carried by substituting ‘for-  
 11 eign oil and gas extraction income’ for ‘for-  
 12 eign oil and gas income’ in subsection (a).

13 “(B) 2008 CREDITS.—In the case of any  
 14 unused credit year beginning in 2008, the  
 15 amendments made to this subsection by the En-  
 16 ergy Advancement and Investment Act of 2007  
 17 shall be treated as being in effect for any pre-  
 18 ceding year beginning before January 1, 2008,  
 19 solely for purposes of determining how much of  
 20 the unused foreign oil and gas taxes for such  
 21 unused credit year may be deemed paid or ac-  
 22 crued in such preceding year.”.

23 (d) CONFORMING AMENDMENT.—Section 6501(i) is  
 24 amended by striking “oil and gas extraction taxes” and  
 25 inserting “foreign oil and gas taxes”.



1 (e) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2007.

4 **SEC. 263. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**  
 5 **ITY TRUST FUND TAX.**

6 (a) INCREASE IN RATE.—

7 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-  
 8 lating to rates) is amended by striking “5 cents”  
 9 and inserting “10 cents”.

10 (2) EFFECTIVE DATE.—The amendment made  
 11 by this subsection shall apply on and after the first  
 12 day of the first calendar quarter beginning more  
 13 than 60 days after the date of the enactment of this  
 14 Act.

15 (b) EXTENSION.—

16 (1) IN GENERAL.—Section 4611(f) (relating to  
 17 application of Oil Spill Liability Trust Fund financ-  
 18 ing rate) is amended by striking paragraphs (2) and  
 19 (3) and inserting the following new paragraph:

20 “(2) TERMINATION.—The Oil Spill Liability  
 21 Trust Fund financing rate shall not apply after De-  
 22 cember 31, 2017.”.

23 (2) CONFORMING AMENDMENT.—Section  
 24 4611(f)(1) is amended by striking “paragraphs (2)  
 25 and (3)” and inserting “paragraph (2)”.

1           (3) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall take effect on the date of the  
3       enactment of this Act.

4 **SEC. 264. LIMITATION ON DRAWBACK CLAIMED FOR**  
5                   **AMOUNTS DEPOSITED INTO THE OIL SPILL**  
6                   **LIABILITY TRUST FUND.**

7       Section 313(j) of the Tariff Act of 1930 (19 U.S.  
8       C. 1313(j)) is amended by adding at the end the following  
9       new paragraph:

10           “(5) LIMITATION ON CERTAIN DRAWBACKS.—  
11       Any tax or fee imposed under section 4611 of the  
12       Internal Revenue Code of 1986 for deposit in the Oil  
13       Spill Liability Trust Fund pursuant to section 9509  
14       of such Code shall not be eligible for refund as draw-  
15       back under this section.”.

16 **SEC. 265. TAX ON CRUDE OIL AND NATURAL GAS PRO-**  
17                   **DUCED FROM THE OUTER CONTINENTAL**  
18                   **SHELF IN THE GULF OF MEXICO.**

19       (a) IN GENERAL.—Subtitle E (relating to alcohol, to-  
20       bacco, and certain other excise taxes) is amended by add-  
21       ing at the end the following new chapter:

1 **“CHAPTER 56—TAX ON SEVERANCE OF**  
 2 **CRUDE OIL AND NATURAL GAS FROM**  
 3 **THE OUTER CONTINENTAL SHELF IN**  
 4 **THE GULF OF MEXICO**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Taxable crude oil or natural gas and removal price.

“Sec. 5898. Special rules and definitions.

5 **“SEC. 5896. IMPOSITION OF TAX.**

6 “(a) IN GENERAL.—In addition to any other tax im-  
 7 posed under this title, there is hereby imposed a tax equal  
 8 to 13 percent of the removal price of any taxable crude  
 9 oil or natural gas removed from the premises during any  
 10 taxable period.

11 “(b) CREDIT FOR FEDERAL ROYALTIES PAID.—

12 “(1) IN GENERAL.—There shall be allowed as a  
 13 credit against the tax imposed by subsection (a) with  
 14 respect to the production of any taxable crude oil or  
 15 natural gas an amount equal to the aggregate  
 16 amount of royalties paid under Federal law with re-  
 17 spect to such production.

18 “(2) LIMITATION.—The aggregate amount of  
 19 credits allowed under paragraph (1) to any taxpayer  
 20 for any taxable period shall not exceed the amount  
 21 of tax imposed by subsection (a) for such taxable pe-  
 22 riod.

1       “(c) TAX PAID BY PRODUCER.—The tax imposed by  
2 this section shall be paid by the producer of the taxable  
3 crude oil or natural gas.

4       **“SEC. 5897. TAXABLE CRUDE OIL OR NATURAL GAS AND RE-**  
5                               **MOVAL PRICE.**

6       “(a) TAXABLE CRUDE OIL OR NATURAL GAS.—For  
7 purposes of this chapter, the term ‘taxable crude oil or  
8 natural gas’ means crude oil or natural gas which is pro-  
9 duced from Federal submerged lands on the outer Conti-  
10 nental Shelf in the Gulf of Mexico pursuant to a lease  
11 entered into with the United States which authorizes the  
12 production.

13       “(b) REMOVAL PRICE.—For purposes of this chap-  
14 ter—

15               “(1) IN GENERAL.—Except as otherwise pro-  
16 vided in this subsection, the term ‘removal price’  
17 means—

18                       “(A) in the case of taxable crude oil, the  
19 amount for which a barrel of such crude oil is  
20 sold, and

21                       “(B) in the case of taxable natural gas, the  
22 amount per 1,000 cubic feet for which such  
23 natural gas is sold.

24       “(2) SALES BETWEEN RELATED PERSONS.—In  
25 the case of a sale between related persons, the re-

1        removal price shall not be less than the constructive  
 2        sales price for purposes of determining gross income  
 3        from the property under section 613.

4            “(3) OIL OR GAS REMOVED FROM PROPERTY  
 5        BEFORE SALE.—If crude oil or natural gas is re-  
 6        moved from the property before it is sold, the re-  
 7        moval price shall be the constructive sales price for  
 8        purposes of determining gross income from the prop-  
 9        erty under section 613.

10           “(4) REFINING BEGUN ON PROPERTY.—If the  
 11        manufacture or conversion of crude oil into refined  
 12        products begins before such oil is removed from the  
 13        property—

14                “(A) such oil shall be treated as removed  
 15                on the day such manufacture or conversion be-  
 16                gins, and

17                “(B) the removal price shall be the con-  
 18                structive sales price for purposes of determining  
 19                gross income from the property under section  
 20                613.

21            “(5) PROPERTY.—The term ‘property’ has the  
 22        meaning given such term by section 614.

23    **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

24            “(a) ADMINISTRATIVE REQUIREMENTS.—

1           “(1) WITHHOLDING AND DEPOSIT OF TAX.—

2           The Secretary shall provide for the withholding and  
3           deposit of the tax imposed under section 5896 on a  
4           quarterly basis.

5           “(2) RECORDS AND INFORMATION.—Each tax-

6           payer liable for tax under section 5896 shall keep  
7           such records, make such returns, and furnish such  
8           information (to the Secretary and to other persons  
9           having an interest in the taxable crude oil or natural  
10          gas) with respect to such oil as the Secretary may  
11          by regulations prescribe.

12          “(3) TAXABLE PERIODS; RETURN OF TAX.—

13                 “(A) TAXABLE PERIOD.—Except as pro-  
14                 vided by the Secretary, each calendar year shall  
15                 constitute a taxable period.

16                 “(B) RETURNS.—The Secretary shall pro-  
17                 vide for the filing, and the time for filing, of the  
18                 return of the tax imposed under section 5896.

19          “(b) DEFINITIONS.—For purposes of this chapter—

20                 “(1) PRODUCER.—The term ‘producer’ means  
21                 the holder of the economic interest with respect to  
22                 the crude oil or natural gas.

23                 “(2) CRUDE OIL.—The term ‘crude oil’ includes  
24                 crude oil condensates and natural gasoline.

1           “(3) PREMISES AND CRUDE OIL PRODUCT.—

2           The terms ‘premises’ and ‘crude oil product’ have  
3           the same meanings as when used for purposes of de-  
4           termining gross income from the property under sec-  
5           tion 613.

6           “(c) ADJUSTMENT OF REMOVAL PRICE.—In deter-  
7           mining the removal price of oil or natural gas from a prop-  
8           erty in the case of any transaction, the Secretary may ad-  
9           just the removal price to reflect clearly the fair market  
10          value of oil or natural gas removed.

11          “(d) REGULATIONS.—The Secretary shall prescribe  
12          such regulations as may be necessary or appropriate to  
13          carry out the purposes of this chapter.”.

14          (b) DEDUCTIBILITY OF TAX.—The first sentence of  
15          section 164(a) (relating to deduction for taxes) is amended  
16          by inserting after paragraph (5) the following new para-  
17          graph:

18                 “(6) The tax imposed by section 5896(a) (after  
19                 application of section 5896(b)) on the severance of  
20                 crude oil or natural gas from the outer Continental  
21                 Shelf in the Gulf of Mexico.”.

22          (c) CLERICAL AMENDMENT.—The table of chapters  
23          for subtitle E is amended by adding at the end the fol-  
24          lowing new item:

“CHAPTER 56. Tax on severance of crude oil and natural gas  
from the outer Continental Shelf in the Gulf of  
Mexico.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to crude oil or natural gas removed  
 3 after the date of the enactment of this Act.

4 **SEC. 266. TAXATION OF TAXABLE FUELS IN FOREIGN**  
 5 **TRADE ZONES.**

6 (a) TAX IMPOSED ON REMOVALS AND ENTRIES IN  
 7 FOREIGN TRADE ZONES.—

8 (1) IN GENERAL.—Subsection (a) of section  
 9 4083 (relating to definitions) is amended by adding  
 10 at the end the following new paragraph:

11 “(4) UNITED STATES.—The term ‘United  
 12 States’ includes any foreign trade zone or bonded  
 13 warehouse located in the United States.”.

14 (2) CONFORMING AMENDMENT.—Section  
 15 4081(a)(1)(A) (relating to imposition of tax) is  
 16 amended—

17 (A) in clause (i), by inserting “in the  
 18 United States” after “refinery”; and

19 (B) in clause (ii), by inserting “in the  
 20 United States” after “terminal”.

21 (b) TREATMENT OF TAXABLE FUEL IN FOREIGN  
 22 TRADE ZONES.—Paragraph (2) of section 81c(a) of title  
 23 19, United States Code, is amended by inserting “(other  
 24 than the provisions relating to taxable fuel (as defined



1 under section 4083(a) of the Internal Revenue Code of  
 2 1986))” after “thereunder”.

3 (c) EFFECTIVE DATES.—

4 (1) SUBSECTION (a).—The amendments made  
 5 by subsection (a) shall apply to removals and entries  
 6 after December 31, 2007.

7 (2) SUBSECTION (b).—The amendment made  
 8 by subsection (b) shall take effect on January 1,  
 9 2008.

10 **SEC. 267. CLARIFICATION OF PENALTY FOR SALE OF FUEL**  
 11 **FAILING TO MEET EPA REGULATIONS.**

12 (a) IN GENERAL.—Subsection (a) of section 6720A  
 13 (relating to penalty with respect to certain adulterated  
 14 fuels) is amended by striking “applicable EPA regulations  
 15 (as defined in section 45H(c)(3))” and inserting “the re-  
 16 quirements for diesel fuel under section 211 of the Clean  
 17 Air Act, as determined by the Secretary,”.

18 (b) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to any transfer, sale, or holding  
 20 out for sale or resale occurring after the date of the enact-  
 21 ment of this Act.

22 **SEC. 268. CLARIFICATION OF ELIGIBILITY FOR CERTAIN**  
 23 **FUELS CREDITS FOR FUEL WITH INSUFFI-**  
 24 **CIENT NEXUS TO THE UNITED STATES.**

25 (a) IN GENERAL.—

1           (1) ALCOHOL CREDIT.—Subsection (d) of sec-  
2           tion 40 is amended by adding at the end the fol-  
3           lowing new paragraph:

4           “(6) LIMITATION TO ALCOHOL WITH CONNEC-  
5           TION TO THE UNITED STATES.—

6           “(A) ALCOHOL CREDIT.—No alcohol credit  
7           shall be determined under this section with re-  
8           spect to any alcohol unless such alcohol is pro-  
9           duced in the United States for consumption in  
10          the United States or entered into the United  
11          States for consumption in the United States.

12          “(B) ALCOHOL MIXTURE CREDIT.—No al-  
13          cohol mixture credit shall be determined under  
14          this section with respect to any mixture unless  
15          such mixture is produced in the United States  
16          for consumption in the United States or entered  
17          into the United States for consumption in the  
18          United States.

19          “(C) NO CREDITS FOR ALCOHOL DES-  
20          TINED FOR EXPORT.—No credit (other than the  
21          small ethanol producer credit) shall be deter-  
22          mined under this section with respect to any  
23          mixture or alcohol if such mixture or alcohol is  
24          destined for export from the United States (as  
25          determined by the Secretary).

1           “(D) SPECIAL RULE FOR SMALL PRO-  
2           DUCER CREDITS.—No small ethanol producer  
3           credit, small cellulosic alcohol producer credit,  
4           or small fossil free alcohol producer credit shall  
5           be determined under this section with respect to  
6           any alcohol unless such alcohol is produced in  
7           the United States.”.

8           (2) BIODIESEL CREDIT.—Subsection (d) of sec-  
9           tion 40A is amended by adding at the end the fol-  
10          lowing new paragraph:

11           “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
12          TION TO THE UNITED STATES.—

13           “(A) BIODIESEL CREDIT.—No biodiesel  
14           credit shall be determined under this section  
15           with respect to any biodiesel unless such bio-  
16           diesel is produced in the United States for con-  
17           sumption in the United States or is entered into  
18           the United States for consumption in the  
19           United States.

20           “(B) BIODIESEL MIXTURE CREDIT.—No  
21           biodiesel mixture credit shall be determined  
22           under this section with respect to any mixture  
23           unless such mixture is produced in the United  
24           States for consumption in the United States or

1 is entered into the United States for consump-  
 2 tion in the United States.

3 “(C) NO CREDITS FOR BIODIESEL DES-  
 4 TINED FOR EXPORT.—No credit (other than the  
 5 small agri-biodiesel producer credit) shall be de-  
 6 termined under this section with respect to any  
 7 mixture or biodiesel if such mixture or biodiesel  
 8 is destined for export from the United States  
 9 (as determined by the Secretary).

10 “(D) SPECIAL RULE FOR SMALL AGRI-BIO-  
 11 DIESEL PRODUCER CREDIT.—No small agri-bio-  
 12 diesel producer credit shall be determined under  
 13 this section with respect to any agri-biodiesel  
 14 unless such agri-biodiesel is produced in the  
 15 United States.”.

16 (3) EXCISE TAX CREDITS.—Section 6426, as  
 17 amended by section 233, is amended by adding at  
 18 the end the following new subsection:

19 “(i) LIMITATION TO FUELS WITH CONNECTION TO  
 20 THE UNITED STATES.—

21 “(1) MIXTURE CREDITS.—No credit shall be  
 22 determined under this section with respect to any  
 23 mixture unless such mixture is produced in the  
 24 United States for consumption in the United States

1 or is entered into the United States for consumption  
2 in the United States.

3 “(2) ALTERNATIVE FUEL CREDIT.—No alter-  
4 native fuel credit shall be determined under this sec-  
5 tion with respect to any alternative fuel unless such  
6 alternative fuel is produced in the United States for  
7 consumption in the United States or is entered into  
8 the United States for consumption in the United  
9 States.

10 “(3) NO CREDITS FOR FUELS DESTINED FOR  
11 EXPORT.—No credit shall be determined under this  
12 section with respect to any mixture or alternative  
13 fuel if such mixture or alternative fuel is destined  
14 for export from the United States (as determined by  
15 the Secretary).”.

16 (4) PAYMENTS.—Subsection (e) of section 6427  
17 is amended by redesignating paragraph (5), as  
18 amended by this Act, as paragraph (6) and by in-  
19 serting after paragraph (4) the following new para-  
20 graph:

21 “(5) LIMITATION TO FUELS WITH CONNECTION  
22 TO THE UNITED STATES.—No amount shall be pay-  
23 able under paragraph (1) or (2) with respect to any  
24 mixture or alternative fuel if credit is not allowed

1 with respect to such mixture or alternative fuel by  
 2 reason of section 6426(i).”.

3 (b) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to fuel sold or used after the date  
 5 of the enactment of this Act.

6 **SEC. 269. TREATMENT OF QUALIFIED ALCOHOL FUEL MIX-**  
 7 **TURES AND QUALIFIED BIODIESEL FUEL MIX-**  
 8 **TURES AS TAXABLE FUELS.**

9 (a) IN GENERAL.—Subparagraph (A) of section  
 10 4083(a)(3) (relating to diesel fuel) is amended by striking  
 11 “and” at the end of clause (ii), by redesignating clause  
 12 (iii) as clause (v), and inserting after clause (ii) the fol-  
 13 lowing new clauses:

14 “(iii) any qualified mixture (as de-  
 15 fined in section 40(b)(1)(B)) which is a  
 16 mixture of alcohol and special fuel,

17 “(iv) any qualified biodiesel mixture  
 18 (as defined in section 40A(b)(1)(B)), and”.

19 (b) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to fuels removed, entered, or sold  
 21 after December 31, 2007.

22 **SEC. 270. CALCULATION OF VOLUME OF ALCOHOL FOR**  
 23 **FUEL CREDITS.**

24 (a) IN GENERAL.—Paragraph (4) of section 40(d)  
 25 (relating to volume of alcohol) is amended by striking “the

1 volume of alcohol” and all that follows and inserting “the  
 2 volume of alcohol shall not include any denaturant added  
 3 to such alcohol.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall apply to fuel sold or used after December  
 6 31, 2007.

7 **SEC. 271. BULK TRANSFER EXCEPTION NOT TO APPLY TO**  
 8 **FINISHED GASOLINE.**

9 (a) IN GENERAL.—Subparagraph (B) of section  
 10 4081(a)(1) (relating to tax on removal, entry, or sale) is  
 11 amended by adding at the end the following new clause:

12 “(iii) EXCEPTION FOR FINISHED GAS-  
 13 OLINE.—Clause (i) shall not apply to any  
 14 gasoline which meets the requirements for  
 15 gasoline under section 211 of the Clean  
 16 Air Act.”.

17 (b) EXCEPTION TO TAX ON FINISHED GASOLINE FOR  
 18 PRIOR TAXABLE REMOVALS.—Paragraph (1) of section  
 19 4081(a) is amended by adding at the end the following  
 20 new subparagraph:

21 “(C) EXEMPTION FOR PREVIOUSLY TAXED  
 22 FINISHED GASOLINE.—The tax imposed by this  
 23 paragraph shall not apply to the removal of  
 24 gasoline described in subparagraph (B)(iii)  
 25 from any terminal if there was a prior taxable

1 removal or entry of such fuel under clause (i),  
 2 (ii), or (iii) of subparagraph (A). The preceding  
 3 sentence shall not apply to the volume of any  
 4 product added to such gasoline at the terminal  
 5 unless there was a prior taxable removal or  
 6 entry of such product under clause (i), (ii), or  
 7 (iii) of subparagraph (A).”.

8 (c) EFFECTIVE DATE.—The amendment made by  
 9 this section shall apply to fuel removed, entered, or sold  
 10 after December 31, 2007.

11 **SEC. 272. APPLICATION OF RULES TREATING INVERTED**  
 12 **CORPORATIONS AS DOMESTIC CORPORA-**  
 13 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**  
 14 **RING AFTER MARCH 20, 2002.**

15 (a) IN GENERAL.—Section 7874(b) (relating to in-  
 16 verted corporations treated as domestic corporations) is  
 17 amended to read as follows:

18 “(b) INVERTED CORPORATIONS TREATED AS DO-  
 19 MESTIC CORPORATIONS.—

20 “(1) IN GENERAL.—Notwithstanding section  
 21 7701(a)(4), a foreign corporation shall be treated for  
 22 purposes of this title as a domestic corporation if  
 23 such corporation would be a surrogate foreign cor-  
 24 poration if subsection (a)(2) were applied by sub-  
 25 stituting ‘80 percent’ for ‘60 percent’.



1           “(2) SPECIAL RULE FOR CERTAIN TRANS-  
2       ACTIONS OCCURRING AFTER MARCH 20, 2002.—

3           “(A) IN GENERAL.—If—

4               “(i) paragraph (1) does not apply to  
5       a foreign corporation, but

6               “(ii) paragraph (1) would apply to  
7       such corporation if, in addition to the sub-  
8       stitution under paragraph (1), subsection  
9       (a)(2) were applied by substituting ‘March  
10      20, 2002’ for ‘March 4, 2003’ each place  
11      it appears,

12      then paragraph (1) shall apply to such corpora-  
13      tion but only with respect to taxable years of  
14      such corporation beginning after December 31,  
15      2006.

16           “(B) SPECIAL RULES.—Subject to such  
17      rules as the Secretary may prescribe, in the  
18      case of a corporation to which paragraph (1)  
19      applies by reason of this paragraph—

20               “(i) the corporation shall be treated,  
21      as of the close of its last taxable year be-  
22      ginning before January 1, 2007, as having  
23      transferred all of its assets, liabilities, and  
24      earnings and profits to a domestic corpora-

tion in a transaction with respect to which  
no tax is imposed under this title,

“(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,

“(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

“(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

“(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the avoidance of the purposes of this paragraph.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2006.

4 **SEC. 273. MODIFICATION OF EFFECTIVE DATE OF LEASING**  
 5 **PROVISIONS OF THE AMERICAN JOBS CRE-**  
 6 **ATION ACT OF 2004.**

7 (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)  
 8 of the American Jobs Creation Act of 2004 is amended  
 9 by adding at the end the following new paragraph:

10 “(5) LEASES TO FOREIGN ENTITIES.—In the  
 11 case of tax-exempt use property leased to a tax-ex-  
 12 empt entity which is a foreign person or entity, the  
 13 amendments made by this part shall apply to taxable  
 14 years beginning after December 31, 2006, with re-  
 15 spect to leases entered into on or before March 12,  
 16 2004.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 this section shall take effect as if included in the enact-  
 19 ment of the American Jobs Creation Act of 2004.

20 **SEC. 274. REVISION OF TAX RULES ON EXPATRIATION OF**  
 21 **INDIVIDUALS.**

22 (a) IN GENERAL.—Subpart A of part II of sub-  
 23 chapter N of chapter 1 is amended by inserting after sec-  
 24 tion 877 the following new section:

1 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

2 “(a) GENERAL RULES.—For purposes of this sub-  
3 title—

4 “(1) MARK TO MARKET.—Except as provided in  
5 subsections (d) and (f), all property of a covered ex-  
6 patriate to whom this section applies shall be treated  
7 as sold on the day before the expatriation date for  
8 its fair market value.

9 “(2) RECOGNITION OF GAIN OR LOSS.—In the  
10 case of any sale under paragraph (1)—

11 “(A) notwithstanding any other provision  
12 of this title, any gain arising from such sale  
13 shall be taken into account for the taxable year  
14 of the sale, and

15 “(B) any loss arising from such sale shall  
16 be taken into account for the taxable year of  
17 the sale to the extent otherwise provided by this  
18 title, except that section 1091 shall not apply to  
19 any such loss.

20 Proper adjustment shall be made in the amount of  
21 any gain or loss subsequently realized for gain or  
22 loss taken into account under the preceding sen-  
23 tence.

24 “(3) EXCLUSION FOR CERTAIN GAIN.—

25 “(A) IN GENERAL.—The amount which,  
26 but for this paragraph, would be includible in

1 the gross income of any individual by reason of  
2 this section shall be reduced (but not below  
3 zero) by \$600,000. For purposes of this para-  
4 graph, allocable expatriation gain taken into ac-  
5 count under subsection (f)(2) shall be treated in  
6 the same manner as an amount required to be  
7 includible in gross income.

8 “(B) COST-OF-LIVING ADJUSTMENT.—

9 “(i) IN GENERAL.—In the case of an  
10 expatriation date occurring in any calendar  
11 year after 2007, the \$600,000 amount  
12 under subparagraph (A) shall be increased  
13 by an amount equal to—

14 “(I) such dollar amount, multi-  
15 plied by

16 “(II) the cost-of-living adjust-  
17 ment determined under section 1(f)(3)  
18 for such calendar year, determined by  
19 substituting ‘calendar year 2006’ for  
20 ‘calendar year 1992’ in subparagraph  
21 (B) thereof.

22 “(ii) ROUNDING RULES.—If any  
23 amount after adjustment under clause (i)  
24 is not a multiple of \$1,000, such amount

1           shall be rounded to the next lower multiple  
2           of \$1,000.

3           “(4) ELECTION TO CONTINUE TO BE TAXED AS  
4       UNITED STATES CITIZEN.—

5           “(A) IN GENERAL.—If a covered expatriate  
6       elects the application of this paragraph—

7           “(i) this section (other than this para-  
8       graph and subsection (i)) shall not apply to  
9       the expatriate, but

10          “(ii) in the case of property to which  
11       this section would apply but for such elec-  
12       tion, the expatriate shall be subject to tax  
13       under this title in the same manner as if  
14       the individual were a United States citizen.

15          “(B) REQUIREMENTS.—Subparagraph (A)  
16       shall not apply to an individual unless the indi-  
17       vidual—

18          “(i) provides security for payment of  
19       tax in such form and manner, and in such  
20       amount, as the Secretary may require,

21          “(ii) consents to the waiver of any  
22       right of the individual under any treaty of  
23       the United States which would preclude as-  
24       sessment or collection of any tax which

1           may be imposed by reason of this para-  
2           graph, and

3           “(iii) complies with such other re-  
4           quirements as the Secretary may prescribe.

5           “(C) ELECTION.—An election under sub-  
6           paragraph (A) shall apply to all property to  
7           which this section would apply but for the elec-  
8           tion and, once made, shall be irrevocable. Such  
9           election shall also apply to property the basis of  
10          which is determined in whole or in part by ref-  
11          erence to the property with respect to which the  
12          election was made.

13       “(b) ELECTION TO DEFER TAX.—

14           “(1) IN GENERAL.—If the taxpayer elects the  
15          application of this subsection with respect to any  
16          property treated as sold by reason of subsection (a),  
17          the payment of the additional tax attributable to  
18          such property shall be postponed until the due date  
19          of the return for the taxable year in which such  
20          property is disposed of (or, in the case of property  
21          disposed of in a transaction in which gain is not rec-  
22          ognized in whole or in part, until such other date as  
23          the Secretary may prescribe).

24           “(2) DETERMINATION OF TAX WITH RESPECT  
25          TO PROPERTY.—For purposes of paragraph (1), the

1 additional tax attributable to any property is an  
2 amount which bears the same ratio to the additional  
3 tax imposed by this chapter for the taxable year  
4 solely by reason of subsection (a) as the gain taken  
5 into account under subsection (a) with respect to  
6 such property bears to the total gain taken into ac-  
7 count under subsection (a) with respect to all prop-  
8 erty to which subsection (a) applies.

9 “(3) TERMINATION OF POSTPONEMENT.—No  
10 tax may be postponed under this subsection later  
11 than the due date for the return of tax imposed by  
12 this chapter for the taxable year which includes the  
13 date of death of the expatriate (or, if earlier, the  
14 time that the security provided with respect to the  
15 property fails to meet the requirements of paragraph  
16 (4), unless the taxpayer corrects such failure within  
17 the time specified by the Secretary).

18 “(4) SECURITY.—

19 “(A) IN GENERAL.—No election may be  
20 made under paragraph (1) with respect to any  
21 property unless adequate security is provided to  
22 the Secretary with respect to such property.

23 “(B) ADEQUATE SECURITY.—For purposes  
24 of subparagraph (A), security with respect to



1           any property shall be treated as adequate secu-  
2           rity if—

3                   “(i) it is a bond in an amount equal  
4                   to the deferred tax amount under para-  
5                   graph (2) for the property, or

6                   “(ii) the taxpayer otherwise estab-  
7                   lishes to the satisfaction of the Secretary  
8                   that the security is adequate.

9           “(5) WAIVER OF CERTAIN RIGHTS.—No elec-  
10          tion may be made under paragraph (1) unless the  
11          taxpayer consents to the waiver of any right under  
12          any treaty of the United States which would pre-  
13          clude assessment or collection of any tax imposed by  
14          reason of this section.

15          “(6) ELECTIONS.—An election under paragraph  
16          (1) shall only apply to property described in the elec-  
17          tion and, once made, is irrevocable. An election may  
18          be made under paragraph (1) with respect to an in-  
19          terest in a trust with respect to which gain is re-  
20          quired to be recognized under subsection (f)(1).

21          “(7) INTEREST.—For purposes of section  
22          6601—

23                   “(A) the last date for the payment of tax  
24                   shall be determined without regard to the elec-  
25                   tion under this subsection, and

1 “(B) section 6621(a)(2) shall be applied by  
2 substituting ‘5 percentage points’ for ‘3 per-  
3 centage points’ in subparagraph (B) thereof.

4 “(c) COVERED EXPATRIATE.—For purposes of this  
5 section—

6 “(1) IN GENERAL.—Except as provided in para-  
7 graph (2), the term ‘covered expatriate’ means an  
8 expatriate.

9 “(2) EXCEPTIONS.—An individual shall not be  
10 treated as a covered expatriate if—

11 “(A) the individual—

12 “(i) became at birth a citizen of the  
13 United States and a citizen of another  
14 country and, as of the expatriation date,  
15 continues to be a citizen of, and is taxed  
16 as a resident of, such other country, and

17 “(ii) has not been a resident of the  
18 United States (as defined in section  
19 7701(b)(1)(A)(ii)) during the 5 taxable  
20 years ending with the taxable year during  
21 which the expatriation date occurs, or

22 “(B)(i) the individual’s relinquishment of  
23 United States citizenship occurs before such in-  
24 dividual attains age 18½, and

1           “(ii) the individual has been a resident of  
 2           the United States (as so defined) for not more  
 3           than 5 taxable years before the date of relin-  
 4           quishment.

5           “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-  
 6           SION PLANS.—

7           “(1) EXEMPT PROPERTY.—This section shall  
 8           not apply to the following:

9           “(A) UNITED STATES REAL PROPERTY IN-  
 10           TERESTS.—Any United States real property in-  
 11           terest (as defined in section 897(c)(1)), other  
 12           than stock of a United States real property  
 13           holding corporation which does not, on the day  
 14           before the expatriation date, meet the require-  
 15           ments of section 897(c)(2).

16           “(B) SPECIFIED PROPERTY.—Any prop-  
 17           erty or interest in property not described in  
 18           subparagraph (A) which the Secretary specifies  
 19           in regulations.

20           “(2) SPECIAL RULES FOR CERTAIN RETIRE-  
 21           MENT PLANS.—

22           “(A) IN GENERAL.—If a covered expatriate  
 23           holds on the day before the expatriation date  
 24           any interest in a retirement plan to which this  
 25           paragraph applies—

1 “(i) such interest shall not be treated  
2 as sold for purposes of subsection (a)(1),  
3 but

4 “(ii) an amount equal to the present  
5 value of the expatriate’s nonforfeitable ac-  
6 crued benefit shall be treated as having  
7 been received by such individual on such  
8 date as a distribution under the plan.

9 “(B) TREATMENT OF SUBSEQUENT DIS-  
10 TRIBUTIONS.—In the case of any distribution  
11 on or after the expatriation date to or on behalf  
12 of the covered expatriate from a plan from  
13 which the expatriate was treated as receiving a  
14 distribution under subparagraph (A), the  
15 amount otherwise includible in gross income by  
16 reason of the subsequent distribution shall be  
17 reduced by the excess of the amount includible  
18 in gross income under subparagraph (A) over  
19 any portion of such amount to which this sub-  
20 paragraph previously applied.

21 “(C) TREATMENT OF SUBSEQUENT DIS-  
22 TRIBUTIONS BY PLAN.—For purposes of this  
23 title, a retirement plan to which this paragraph  
24 applies, and any person acting on the plan’s be-  
25 half, shall treat any subsequent distribution de-

scribed in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

“(D) APPLICABLE PLANS.—This paragraph shall apply to—

“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

“(e) DEFINITIONS.—For purposes of this section—

“(1) EXPATRIATE.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

1           “(ii) commences to be treated as a  
2           resident of a foreign country under the  
3           provisions of a tax treaty between the  
4           United States and the foreign country and  
5           who does not waive the benefits of such  
6           treaty applicable to residents of the foreign  
7           country.

8           “(2) EXPATRIATION DATE.—The term ‘expa-  
9           triation date’ means—

10           “(A) the date an individual relinquishes  
11           United States citizenship, or

12           “(B) in the case of a long-term resident of  
13           the United States, the date of the event de-  
14           scribed in clause (i) or (ii) of paragraph (1)(B).

15           “(3) RELINQUISHMENT OF CITIZENSHIP.—A  
16           citizen shall be treated as relinquishing United  
17           States citizenship on the earliest of—

18           “(A) the date the individual renounces  
19           such individual’s United States nationality be-  
20           fore a diplomatic or consular officer of the  
21           United States pursuant to paragraph (5) of sec-  
22           tion 349(a) of the Immigration and Nationality  
23           Act (8 U.S.C. 1481(a)(5)),

24           “(B) the date the individual furnishes to  
25           the United States Department of State a signed

1 statement of voluntary relinquishment of  
2 United States nationality confirming the per-  
3 formance of an act of expatriation specified in  
4 paragraph (1), (2), (3), or (4) of section 349(a)  
5 of the Immigration and Nationality Act (8  
6 U.S.C. 1481(a)(1)–(4)),

7 “(C) the date the United States Depart-  
8 ment of State issues to the individual a certifi-  
9 cate of loss of nationality, or

10 “(D) the date a court of the United States  
11 cancels a naturalized citizen’s certificate of nat-  
12 uralization.

13 Subparagraph (A) or (B) shall not apply to any indi-  
14 vidual unless the renunciation or voluntary relin-  
15 quishment is subsequently approved by the issuance  
16 to the individual of a certificate of loss of nationality  
17 by the United States Department of State.

18 “(4) LONG-TERM RESIDENT.—The term ‘long-  
19 term resident’ has the meaning given to such term  
20 by section 877(e)(2).

21 “(f) SPECIAL RULES APPLICABLE TO BENE-  
22 FICIARIES’ INTERESTS IN TRUST.—

23 “(1) IN GENERAL.—Except as provided in para-  
24 graph (2), if an individual is determined under para-

1 graph (3) to hold an interest in a trust on the day  
 2 before the expatriation date—

3 “(A) the individual shall not be treated as  
 4 having sold such interest,

5 “(B) such interest shall be treated as a  
 6 separate share in the trust, and

7 “(C)(i) such separate share shall be treat-  
 8 ed as a separate trust consisting of the assets  
 9 allocable to such share,

10 “(ii) the separate trust shall be treated as  
 11 having sold its assets on the day before the ex-  
 12 patriation date for their fair market value and  
 13 as having distributed all of its assets to the in-  
 14 dividual as of such time, and

15 “(iii) the individual shall be treated as hav-  
 16 ing recontributed the assets to the separate  
 17 trust.

18 Subsection (a)(2) shall apply to any income, gain, or  
 19 loss of the individual arising from a distribution de-  
 20 scribed in subparagraph (C)(ii). In determining the  
 21 amount of such distribution, proper adjustments  
 22 shall be made for liabilities of the trust allocable to  
 23 an individual’s share in the trust.

24 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-  
 25 FIED TRUSTS.—



1           “(A) IN GENERAL.—If the trust interest  
2 described in paragraph (1) is an interest in a  
3 qualified trust—

4           “(i) paragraph (1) and subsection (a)  
5 shall not apply, and

6           “(ii) in addition to any other tax im-  
7 posed by this title, there is hereby imposed  
8 on each distribution with respect to such  
9 interest a tax in the amount determined  
10 under subparagraph (B).

11           “(B) AMOUNT OF TAX.—The amount of  
12 tax under subparagraph (A)(ii) shall be equal to  
13 the lesser of—

14           “(i) the highest rate of tax imposed by  
15 section 1(e) for the taxable year which in-  
16 cludes the day before the expatriation date,  
17 multiplied by the amount of the distribu-  
18 tion, or

19           “(ii) the balance in the deferred tax  
20 account immediately before the distribution  
21 determined without regard to any increases  
22 under subparagraph (C)(ii) after the 30th  
23 day preceding the distribution.

24           “(C) DEFERRED TAX ACCOUNT.—For pur-  
25 poses of subparagraph (B)(ii)—

1           “(i) OPENING BALANCE.—The open-  
2           ing balance in a deferred tax account with  
3           respect to any trust interest is an amount  
4           equal to the tax which would have been im-  
5           posed on the allocable expatriation gain  
6           with respect to the trust interest if such  
7           gain had been included in gross income  
8           under subsection (a).

9           “(ii) INCREASE FOR INTEREST.—The  
10          balance in the deferred tax account shall  
11          be increased by the amount of interest de-  
12          termined (on the balance in the account at  
13          the time the interest accrues), for periods  
14          after the 90th day after the expatriation  
15          date, by using the rates and method appli-  
16          cable under section 6621 for underpay-  
17          ments of tax for such periods, except that  
18          section 6621(a)(2) shall be applied by sub-  
19          stituting ‘5 percentage points’ for ‘3 per-  
20          centage points’ in subparagraph (B) there-  
21          of.

22          “(iii) DECREASE FOR TAXES PRE-  
23          VIOUSLY PAID.—The balance in the tax de-  
24          ferred account shall be reduced—

1                   “(I) by the amount of taxes im-  
 2                   posed by subparagraph (A) on any  
 3                   distribution to the person holding the  
 4                   trust interest, and

5                   “(II) in the case of a person  
 6                   holding a nonvested interest, to the  
 7                   extent provided in regulations, by the  
 8                   amount of taxes imposed by subpara-  
 9                   graph (A) on distributions from the  
 10                  trust with respect to nonvested inter-  
 11                  ests not held by such person.

12                  “(D) ALLOCABLE EXPATRIATION GAIN.—  
 13                  For purposes of this paragraph, the allocable  
 14                  expatriation gain with respect to any bene-  
 15                  ficiary’s interest in a trust is the amount of  
 16                  gain which would be allocable to such bene-  
 17                  ficiary’s vested and nonvested interests in the  
 18                  trust if the beneficiary held directly all assets  
 19                  allocable to such interests.

20                  “(E) TAX DEDUCTED AND WITHHELD.—

21                         “(i) IN GENERAL.—The tax imposed  
 22                         by subparagraph (A)(ii) shall be deducted  
 23                         and withheld by the trustees from the dis-  
 24                         tribution to which it relates.

1                   “(ii) EXCEPTION WHERE FAILURE TO  
2                   WAIVE TREATY RIGHTS.—If an amount  
3                   may not be deducted and withheld under  
4                   clause (i) by reason of the distributee fail-  
5                   ing to waive any treaty right with respect  
6                   to such distribution—

7                   “(I) the tax imposed by subpara-  
8                   graph (A)(ii) shall be imposed on the  
9                   trust and each trustee shall be person-  
10                  ally liable for the amount of such tax,  
11                  and

12                  “(II) any other beneficiary of the  
13                  trust shall be entitled to recover from  
14                  the distributee the amount of such tax  
15                  imposed on the other beneficiary.

16                  “(F) DISPOSITION.—If a trust ceases to be  
17                  a qualified trust at any time, a covered expa-  
18                  triate disposes of an interest in a qualified  
19                  trust, or a covered expatriate holding an inter-  
20                  est in a qualified trust dies, then, in lieu of the  
21                  tax imposed by subparagraph (A)(ii), there is  
22                  hereby imposed a tax equal to the lesser of—

23                  “(i) the tax determined under para-  
24                  graph (1) as if the day before the expatria-  
25                  tion date were the date of such cessation,

disposition, or death, whichever is applicable, or

“(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

“(G) DEFINITIONS AND SPECIAL RULES.—

For purposes of this paragraph—

“(i) QUALIFIED TRUST.—The term ‘qualified trust’ means a trust which is described in section 7701(a)(30)(E).

“(ii) VESTED INTEREST.—The term ‘vested interest’ means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

“(iii) NONVESTED INTEREST.—The term ‘nonvested interest’ means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in

1 favor of the beneficiary and the occurrence  
2 of all contingencies in favor of the bene-  
3 ficiary.

4 “(iv) ADJUSTMENTS.—The Secretary  
5 may provide for such adjustments to the  
6 bases of assets in a trust or a deferred tax  
7 account, and the timing of such adjust-  
8 ments, in order to ensure that gain is  
9 taxed only once.

10 “(v) COORDINATION WITH RETIRE-  
11 MENT PLAN RULES.—This subsection shall  
12 not apply to an interest in a trust which  
13 is part of a retirement plan to which sub-  
14 section (d)(2) applies.

15 “(3) DETERMINATION OF BENEFICIARIES’ IN-  
16 TEREST IN TRUST.—

17 “(A) DETERMINATIONS UNDER PARA-  
18 GRAPH (1).—For purposes of paragraph (1), a  
19 beneficiary’s interest in a trust shall be based  
20 upon all relevant facts and circumstances, in-  
21 cluding the terms of the trust instrument and  
22 any letter of wishes or similar document, histor-  
23 ical patterns of trust distributions, and the ex-  
24 istence of and functions performed by a trust  
25 protector or any similar adviser.

1           “(B) OTHER DETERMINATIONS.—For pur-  
2 poses of this section—

3           “(i) CONSTRUCTIVE OWNERSHIP.—If  
4 a beneficiary of a trust is a corporation,  
5 partnership, trust, or estate, the share-  
6 holders, partners, or beneficiaries shall be  
7 deemed to be the trust beneficiaries for  
8 purposes of this section.

9           “(ii) TAXPAYER RETURN POSITION.—  
10 A taxpayer shall clearly indicate on its in-  
11 come tax return—

12           “(I) the methodology used to de-  
13 termine that taxpayer’s trust interest  
14 under this section, and

15           “(II) if the taxpayer knows (or  
16 has reason to know) that any other  
17 beneficiary of such trust is using a  
18 different methodology to determine  
19 such beneficiary’s trust interest under  
20 this section.

21           “(g) TERMINATION OF DEFERRALS, ETC.—In the  
22 case of any covered expatriate, notwithstanding any other  
23 provision of this title—

1           “(1) any period during which recognition of in-  
2           come or gain is deferred shall terminate on the day  
3           before the expatriation date, and

4           “(2) any extension of time for payment of tax  
5           shall cease to apply on the day before the expatria-  
6           tion date and the unpaid portion of such tax shall  
7           be due and payable at the time and in the manner  
8           prescribed by the Secretary.

9           “(h) IMPOSITION OF TENTATIVE TAX.—

10           “(1) IN GENERAL.—If an individual is required  
11           to include any amount in gross income under sub-  
12           section (a) for any taxable year, there is hereby im-  
13           posed, immediately before the expatriation date, a  
14           tax in an amount equal to the amount of tax which  
15           would be imposed if the taxable year were a short  
16           taxable year ending on the expatriation date.

17           “(2) DUE DATE.—The due date for any tax im-  
18           posed by paragraph (1) shall be the 90th day after  
19           the expatriation date.

20           “(3) TREATMENT OF TAX.—Any tax paid under  
21           paragraph (1) shall be treated as a payment of the  
22           tax imposed by this chapter for the taxable year to  
23           which subsection (a) applies.

24           “(4) DEFERRAL OF TAX.—The provisions of  
25           subsection (b) shall apply to the tax imposed by this



1 subsection to the extent attributable to gain includ-  
 2 ible in gross income by reason of this section.

3 “(i) SPECIAL LIENS FOR DEFERRED TAX  
 4 AMOUNTS.—

5 “(1) IMPOSITION OF LIEN.—

6 “(A) IN GENERAL.—If a covered expatriate  
 7 makes an election under subsection (a)(4) or  
 8 (b) which results in the deferral of any tax im-  
 9 posed by reason of subsection (a), the deferred  
 10 amount (including any interest, additional  
 11 amount, addition to tax, assessable penalty, and  
 12 costs attributable to the deferred amount) shall  
 13 be a lien in favor of the United States on all  
 14 property of the expatriate located in the United  
 15 States (without regard to whether this section  
 16 applies to the property).

17 “(B) DEFERRED AMOUNT.—For purposes  
 18 of this subsection, the deferred amount is the  
 19 amount of the increase in the covered expatri-  
 20 ate’s income tax which, but for the election  
 21 under subsection (a)(4) or (b), would have oc-  
 22 curred by reason of this section for the taxable  
 23 year including the expatriation date.

1           “(2) PERIOD OF LIEN.—The lien imposed by  
2           this subsection shall arise on the expatriation date  
3           and continue until—

4                   “(A) the liability for tax by reason of this  
5           section is satisfied or has become unenforceable  
6           by reason of lapse of time, or

7                   “(B) it is established to the satisfaction of  
8           the Secretary that no further tax liability may  
9           arise by reason of this section.

10           “(3) CERTAIN RULES APPLY.—The rules set  
11          forth in paragraphs (1), (3), and (4) of section  
12          6324A(d) shall apply with respect to the lien im-  
13          posed by this subsection as if it were a lien imposed  
14          by section 6324A.

15          “(j) REGULATIONS.—The Secretary shall prescribe  
16          such regulations as may be necessary or appropriate to  
17          carry out the purposes of this section.”.

18          (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS  
19          RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS  
20          FROM EXPATRIATES.—Section 102 (relating to gifts, etc.  
21          not included in gross income) is amended by adding at  
22          the end the following new subsection:

23               “(d) GIFTS AND INHERITANCES FROM COVERED EX-  
24          PATRIATES.—

1           “(1) TREATMENT OF GIFTS AND INHERIT-  
2       ANCES.—

3           “(A) IN GENERAL.—Subsection (a) shall  
4       not exclude from gross income the value of any  
5       property acquired by gift, bequest, devise, or in-  
6       heritance from a covered expatriate after the  
7       expatriation date.

8           “(B) DETERMINATION OF BASIS.—Not-  
9       withstanding sections 1015 or 1022, the basis  
10      of any property described in subparagraph (A)  
11      in the hands of the donee or the person acquir-  
12      ing such property from the decedent shall be  
13      equal to the fair market value of the property  
14      at the time of the gift, bequest, devise, or inher-  
15      itance.

16          “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE  
17      SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)  
18      shall not apply to any property if either—

19           “(A) the gift, bequest, devise, or inherit-  
20      ance is—

21           “(i) shown on a timely filed return of  
22      tax imposed by chapter 12 as a taxable gift  
23      by the covered expatriate, or

24           “(ii) included in the gross estate of  
25      the covered expatriate for purposes of

1 chapter 11 and shown on a timely filed re-  
 2 turn of tax imposed by chapter 11 of the  
 3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but  
 5 no such return would have been required to be  
 6 filed even if the covered expatriate were a cit-  
 7 izen or long-term resident of the United States.

8 “(3) DEFINITIONS.—For purposes of this sub-  
 9 section, any term used in this subsection which is  
 10 also used in section 877A shall have the same mean-  
 11 ing as when used in section 877A.”.

12 (c) DEFINITION OF TERMINATION OF UNITED  
 13 STATES CITIZENSHIP.—Section 7701(a) is amended by  
 14 adding at the end the following new paragraph:

15 “(50) TERMINATION OF UNITED STATES CITI-  
 16 ZENSHIP.—

17 “(A) IN GENERAL.—An individual shall  
 18 not cease to be treated as a United States cit-  
 19 izen before the date on which the individual’s  
 20 citizenship is treated as relinquished under sec-  
 21 tion 877A(e)(3).

22 “(B) DUAL CITIZENS.—Under regulations  
 23 prescribed by the Secretary, subparagraph (A)  
 24 shall not apply to an individual who became at

1 birth a citizen of the United States and a cit-  
 2 izen of another country.”.

3 (d) INELIGIBILITY FOR VISA OR ADMISSION TO  
 4 UNITED STATES.—

5 (1) IN GENERAL.—Section 212(a)(10)(E) of the  
 6 Immigration and Nationality Act (8 U.S.C.  
 7 1182(a)(10)(E)) is amended to read as follows:

8 “(E) FORMER CITIZENS NOT IN COMPLI-  
 9 ANCE WITH EXPATRIATION REVENUE PROVI-  
 10 SIONS.—Any alien who is a former citizen of  
 11 the United States who relinquishes United  
 12 States citizenship (within the meaning of sec-  
 13 tion 877A(e)(3) of the Internal Revenue Code  
 14 of 1986) and who is not in compliance with sec-  
 15 tion 877A of such Code (relating to expatria-  
 16 tion) is inadmissible.”.

17 (2) AVAILABILITY OF INFORMATION.—

18 (A) IN GENERAL.—Section 6103(l) (relat-  
 19 ing to disclosure of returns and return informa-  
 20 tion for purposes other than tax administration)  
 21 is amended by adding at the end the following  
 22 new paragraph:

23 “(21) DISCLOSURE TO DENY VISA OR ADMIS-  
 24 SION TO CERTAIN EXPATRIATES.—Upon written re-  
 25 quest of the Attorney General or the Attorney Gen-

1       eral’s delegate, the Secretary shall disclose whether  
 2       an individual is in compliance with section 877A  
 3       (and if not in compliance, any items of noncompli-  
 4       ance) to officers and employees of the Federal agen-  
 5       cy responsible for administering section  
 6       212(a)(10)(E) of the Immigration and Nationality  
 7       Act solely for the purpose of, and to the extent nec-  
 8       essary in, administering such section  
 9       212(a)(10)(E).”.

10               (B) SAFEGUARDS.—Section 6103(p)(4)  
 11               (relating to safeguards) is amended by striking  
 12               “or (20)” each place it appears and inserting  
 13               “(20), or (21)”.

14               (3) EFFECTIVE DATES.—The amendments  
 15       made by this subsection shall apply to individuals  
 16       who relinquish United States citizenship on or after  
 17       the date of the enactment of this Act.

18       (e) CONFORMING AMENDMENTS.—

19               (1) Section 877 is amended by adding at the  
 20       end the following new subsection:

21       “(h) APPLICATION.—This section shall not apply to  
 22       an expatriate (as defined in section 877A(e)) whose expa-  
 23       triation date (as so defined) occurs on or after the date  
 24       of the enactment of this subsection.”.

1           (2) Section 2107 is amended by adding at the  
2           end the following new subsection:

3           “(f) APPLICATION.—This section shall not apply to  
4 any expatriate subject to section 877A.”.

5           (3) Section 2501(a)(3) is amended by adding at  
6           the end the following new subparagraph:

7                   “(C) APPLICATION.—This paragraph shall  
8           not apply to any expatriate subject to section  
9           877A.”.

10          (4) Section 6039G(a) is amended by inserting  
11          “or 877A” after “section 877(b)”.

12          (5) The second sentence of section 6039G(d) is  
13          amended by inserting “or who relinquishes United  
14          States citizenship (within the meaning of section  
15          877A(e)(3))” after “section 877(a)”.

16          (6) Section 7701(n) is amended by adding at  
17          the end the following new paragraph:

18                   “(3) APPLICATION.—This subsection shall not  
19          apply to any expatriate subject to section 877A.”.

20          (f) CLERICAL AMENDMENT.—The table of sections  
21 for subpart A of part II of subchapter N of chapter 1  
22 is amended by inserting after the item relating to section  
23 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

24          (g) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as provided in this  
2       subsection, the amendments made by this section  
3       shall apply to expatriates (within the meaning of  
4       section 877A(e) of the Internal Revenue Code of  
5       1986, as added by this section) whose expatriation  
6       date (as so defined) occurs on or after the date of  
7       the enactment of this Act.

8           (2) GIFTS AND BEQUESTS.—Section 102(d) of  
9       the Internal Revenue Code of 1986 (as added by  
10      subsection (b)) shall apply to gifts and bequests re-  
11      ceived on or after the date of the enactment of this  
12      Act, from an individual or the estate of an individual  
13      whose expatriation date (as so defined) occurs after  
14      such date.

15          (3) DUE DATE FOR TENTATIVE TAX.—The due  
16      date under section 877A(h)(2) of the Internal Rev-  
17      enue Code of 1986, as added by this section, shall  
18      in no event occur before the 90th day after the date  
19      of the enactment of this Act.

○